

(124th General Assembly)
(House Bill Number 675)

AN ACT

To amend sections 102.02, 109.71, 109.77, 122.171, 123.024, 123.10, 124.381, 124.82, 133.20, 145.01, 145.012, 145.33, 151.01, 151.40, 152.09, 152.10, 166.01, 166.02, 166.03, 166.04, 166.05, 166.06, 166.07, 166.08, 166.11, 183.021, 183.19, 183.30, 307.23, 715.02, 1561.351, 1565.04, 1565.15, 1711.11, 1711.53, 2113.031, 2901.01, 2921.51, 2935.01, 2935.03, 2935.031, 3318.01, 3318.011, 3318.03, 3318.031, 3318.032, 3318.033, 3318.042, 3318.08, 3318.084, 3318.086, 3318.10, 3318.12, 3318.15, 3318.19, 3318.25, 3318.26, 3318.311, 3318.36, 3354.16, 3355.12, 3357.16, 3383.01, 3383.02, 3383.03, 3519.04, 3702.5210, 3702.5211, 3702.5213, 3721.01, 3737.71, 4117.01, 4117.14, 4123.01, 4123.35, 4582.03, 4582.20, 4582.27, 4582.30, 4582.46, 5709.61, 5715.20, 5717.01, 5731.21, 5733.021, 5733.26, 5733.40, 5733.401, 5739.031, 5747.01, 5747.02, 5902.02, 5902.05, 5907.01, 5907.02, 5907.021, 5907.022, 5907.03, 5907.04, 5907.05, 5907.06, 5907.07, 5907.08, 5907.09, 5907.10, 5907.11, 5907.12, 5907.13, 5907.131, 5907.14, 5907.141, 5907.15, 6103.02, and 6103.25; to enact new section 5747.231 and sections 152.101, 166.12, 166.13, 166.14, 166.15, 166.16, 184.01, 184.02, 184.03, 307.675, 718.151, 3318.40, 3318.41, 3318.42, 3318.43, 3318.44, 3318.45, 3318.46, 3385.01, 3385.02, 3385.03, 3385.04, 3385.05, 3385.06, 3385.07, 3385.08, 3385.09, 3385.10, 5747.011, 5747.012, and 5907.023; to repeal sections 183.20, 183.21, 183.22, 183.23, 183.24, 183.25, and 5747.231 of the Revised Code; and to amend Section 9 of Am. Sub. S.B. 242 of

the 124th General Assembly to repeal Section 25 of Am. Sub. S.B. 261 of the 124th General Assembly to make capital appropriations, to modify other appropriations for the biennium ending June 30, 2004, and to provide authorization and conditions for the operation of state programs; to amend the version of section 2935.03 of the Revised Code that is scheduled to take effect January 1, 2004, to continue the provisions of this act on and after that effective date; to amend the versions of sections 5739.026 and 5739.033 of the Revised Code that are scheduled to take effect July 1, 2003, to continue the provisions of this act on and after that effective date; and to repeal Section 32.01 of this act on July 1, 2003.

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

SECTION 1.01. That sections 102.02, 109.71, 109.77, 122.171, 123.024, 123.10, 124.381, 124.82, 133.20, 145.01, 145.012, 145.33, 151.01, 151.40, 152.09, 152.10, 166.01, 166.02, 166.03, 166.04, 166.05, 166.06, 166.07, 166.08, 166.11, 183.021, 183.19, 183.30, 307.23, 715.02, 1561.351, 1565.04, 1565.15, 1711.11, 1711.53, 2113.031, 2901.01, 2921.51, 2935.01, 2935.03, 2935.031, 3318.01, 3318.011, 3318.03, 3318.031, 3318.032, 3318.033, 3318.042, 3318.08, 3318.084, 3318.086, 3318.10, 3318.12, 3318.15, 3318.19, 3318.25, 3318.26, 3318.311, 3318.36, 3354.16, 3355.12, 3357.16, 3383.01, 3383.02, 3383.03, 3519.04, 3702.5210, 3702.5211, 3702.5213, 3721.01, 3737.71, 4117.01, 4117.14, 4123.01, 4123.35, 4582.03, 4582.20, 4582.27, 4582.30, 4582.46, 5709.61, 5715.20, 5717.01, 5731.21, 5733.021, 5733.26, 5733.40, 5733.401, 5739.031, 5747.01, 5747.02, 5902.02, 5902.05, 5907.01, 5907.02, 5907.021, 5907.022, 5907.03, 5907.04, 5907.05, 5907.06, 5907.07, 5907.08, 5907.09, 5907.10, 5907.11, 5907.12, 5907.13, 5907.131, 5907.14, 5907.141, 5907.15, 6103.02, and 6103.25 be amended and new section 5747.231 and sections 152.101, 166.12, 166.13, 166.14, 166.15, 166.16, 184.01, 184.02, 184.03, 307.675, 718.151, 3318.40, 3318.41, 3318.42, 3318.43, 3318.44, 3318.45, 3318.46, 3385.01, 3385.02, 3385.03, 3385.04, 3385.05, 3385.06, 3385.07, 3385.08, 3385.09, 3385.10, 5747.011, 5747.012, and 5907.023 of the Revised Code be enacted to read

as follows:

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 education 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 a total student count of twelve thousand or more as most recently determined by the department of education pursuant to section 3317.03 of the Revised Code; every person who is appointed to the board of education of a municipal school district pursuant to division (B) or (F) of section 3311.71 of the Revised Code; all members of the board of directors of a sanitary district established under Chapter 6115. of the Revised Code and organized wholly for the purpose of providing a water supply for domestic, municipal, and public use that includes two municipal corporations in two counties; 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; members of the board of trustees and the executive director of the tobacco use prevention and control foundation; members of the board of trustees and the executive director of the southern Ohio agricultural and community development foundation; ~~members and the executive director of the biomedical research and technology transfer commission;~~ 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 all of the following:

(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 do 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 who 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 this state or holds a certificate of compliance authorizing it to do business in this state, trust, business trust, partnership, or association that transacts business in this state 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. Division (A)(3) of this section 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. Division (A)(5) of this section 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 owe 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. Division (A)(6) of this section 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 any state agency, including, but not limited to, any legislative agency or state institution of higher education as defined in section 3345.011 of the Revised Code, pays membership dues, 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 any state agency, including, but not limited to, any legislative agency or state institution of higher education as defined in section 3345.011 of the Revised Code, pays membership dues, 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 the candidacy is to be voted on, whichever election occurs soonest, except that 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 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.

Except for disclosure statements filed by members of the board of trustees and the executive director of the tobacco use prevention and control foundation; and members of the board of trustees and the executive director

of the southern Ohio agricultural and community development foundation; ~~and members and the executive director of the biomedical research and technology transfer commission,~~ 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 or educational service center 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 division.

(C) No person shall knowingly fail to file, on or before the applicable filing deadline established 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, 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

panied 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
For city office	\$10
For office of member of state board of education	\$20
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 a court of record, 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 receipts, including, but

not limited to, 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 and statutory functions 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. 109.71. There is hereby created in the office of the attorney general the Ohio peace officer training commission. The commission shall consist of nine members appointed by the governor with the advice and consent of the senate and selected as follows: one member representing the public; two members who are incumbent sheriffs; two members who are incumbent chiefs of police; one member from the bureau of criminal identification and investigation; one member from the state highway patrol; one member who is the special agent in charge of a field office of the federal bureau of investigation in this state; and one member from the department of education, trade and industrial education services, law enforcement training.

As used in sections 109.71 to 109.77 of the Revised Code:

(A) "Peace officer" means:

(1) A deputy sheriff, marshal, deputy marshal, member of the organized police department of a township or municipal corporation, member of a township police district or joint township police district police force, member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, or township constable, who is commissioned and employed as a peace officer by a political subdivision of this state or by a metropolitan housing authority, and whose primary duties are to preserve the peace, to protect life and property, and to enforce the laws of this state, ordinances of a municipal corporation, resolutions of a township, or regulations of a board of county commissioners or board of township trustees, or any of those laws, ordinances, resolutions, or regulations;

(2) A police officer who is employed by a railroad company and appointed and commissioned by the governor pursuant to sections 4973.17 to 4973.22 of the Revised Code;

(3) Employees of the department of taxation engaged in the enforcement of Chapter 5743. of the Revised Code and designated by the tax commissioner for peace officer training for purposes of the delegation of investigation powers under section 5743.45 of the Revised Code;

(4) An undercover drug agent;

(5) Enforcement agents of the department of public safety whom the director of public safety designates under section 5502.14 of the Revised Code;

(6) An employee of the department of natural resources who is a natural resources law enforcement staff officer designated pursuant to section 1501.013, a park officer designated pursuant to section 1541.10, a forest officer designated pursuant to section 1503.29, a preserve officer designated pursuant to section 1517.10, a wildlife officer designated pursuant to section 1531.13, or a state watercraft officer designated pursuant to section 1547.521 of the Revised Code;

(7) An employee of a park district who is designated pursuant to section 511.232 or 1545.13 of the Revised Code;

(8) An employee of a conservancy district who is designated pursuant to section 6101.75 of the Revised Code;

(9) A police officer who is employed by a hospital that employs and maintains its own proprietary police department or security department, and who is appointed and commissioned by the governor pursuant to sections 4973.17 to 4973.22 of the Revised Code;

(10) ~~Ohio veterans' home~~ Veterans' homes police officers designated under section 5907.02 of the Revised Code;

(11) A police officer who is employed by a qualified nonprofit corporation police department pursuant to section 1702.80 of the Revised Code;

(12) A state university law enforcement officer appointed under section 3345.04 of the Revised Code or a person serving as a state university law enforcement officer on a permanent basis on June 19, 1978, who has been awarded a certificate by the executive director of the Ohio peace officer training council attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program;

(13) A special police officer employed by the department of mental health pursuant to section 5119.14 of the Revised Code or the department of

mental retardation and developmental disabilities pursuant to section 5123.13 of the Revised Code;

(14) A member of a campus police department appointed under section 1713.50 of the Revised Code;

(15) A member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code;

(16) Investigators appointed by the auditor of state pursuant to section 117.091 of the Revised Code and engaged in the enforcement of Chapter 117. of the Revised Code;

(17) A special police officer designated by the superintendent of the state highway patrol pursuant to section 5503.09 of the Revised Code or a person who was serving as a special police officer pursuant to that section on a permanent basis on October 21, 1997, and who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program;

~~(19)~~(18) A special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code or a person serving as a special police officer employed by a port authority on a permanent basis on ~~the effective date of this amendment~~ May 17, 2000, who has been awarded a certificate by the executive director of the Ohio peace officer training council attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program.

(B) "Undercover drug agent" has the same meaning as in division (B)(2) of section 109.79 of the Revised Code.

(C) "Crisis intervention training" means training in the use of interpersonal and communication skills to most effectively and sensitively interview victims of rape.

(D) "Missing children" has the same meaning as in section 2901.30 of the Revised Code.

Sec. 109.77. (A) As used in this section, "felony" has the same meaning as in section 109.511 of the Revised Code.

(B)(1) Notwithstanding any general, special, or local law or charter to the contrary, and except as otherwise provided in this section, no person shall receive an original appointment on a permanent basis as any of the following unless the person previously has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal,

or department of natural resources peace officer basic training program:

(a) A peace officer of any county, township, municipal corporation, regional transit authority, or metropolitan housing authority;

(b) A natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, or state watercraft officer of the department of natural resources;

(c) An employee of a park district under section 511.232 or 1545.13 of the Revised Code;

(d) An employee of a conservancy district who is designated pursuant to section 6101.75 of the Revised Code;

(e) A state university law enforcement officer;

(f) A special police officer employed by the department of mental health pursuant to section 5119.14 of the Revised Code or the department of mental retardation and developmental disabilities pursuant to section 5123.13 of the Revised Code;

(g) An enforcement agent of the department of public safety whom the director of public safety designates under section 5502.14 of the Revised Code;

(h) A special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code.

(2) Every person who is appointed on a temporary basis or for a probationary term or on other than a permanent basis as any of the following shall forfeit the appointed position unless the person previously has completed satisfactorily or, within the time prescribed by rules adopted by the attorney general pursuant to section 109.74 of the Revised Code, satisfactorily completes a state, county, municipal, or department of natural resources peace officer basic training program for temporary or probationary officers and is awarded a certificate by the director attesting to the satisfactory completion of the program:

(a) A peace officer of any county, township, municipal corporation, regional transit authority, or metropolitan housing authority;

(b) A natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, or state watercraft officer of the department of natural resources;

(c) An employee of a park district under section 511.232 or 1545.13 of the Revised Code;

(d) An employee of a conservancy district who is designated pursuant to section 6101.75 of the Revised Code;

(e) A special police officer employed by the department of mental health pursuant to section 5119.14 of the Revised Code or the department of

mental retardation and developmental disabilities pursuant to section 5123.13 of the Revised Code;

(f) An enforcement agent of the department of public safety whom the director of public safety designates under section 5502.14 of the Revised Code;

(g) A special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code.

(3) For purposes of division (B) of this section, a state, county, municipal, or department of natural resources peace officer basic training program, regardless of whether the program is to be completed by peace officers appointed on a permanent or temporary, probationary, or other nonpermanent basis, shall include at least fifteen hours of training in the handling of the offense of domestic violence, other types of domestic violence-related offenses and incidents, and protection orders and consent agreements issued or approved under section 2919.26 or 3113.31 of the Revised Code and at least six hours of crisis intervention training. The requirement to complete fifteen hours of training in the handling of the offense of domestic violence, other types of domestic violence-related offenses and incidents, and protection orders and consent agreements issued or approved under section 2919.26 or 3113.31 of the Revised Code does not apply to any person serving as a peace officer on March 27, 1979, and the requirement to complete six hours of training in crisis intervention does not apply to any person serving as a peace officer on April 4, 1985. Any person who is serving as a peace officer on April 4, 1985, who terminates that employment after that date, and who subsequently is hired as a peace officer by the same or another law enforcement agency shall complete the six hours of training in crisis intervention within the time prescribed by rules adopted by the attorney general pursuant to section 109.742 of the Revised Code. No peace officer shall have employment as a peace officer terminated and then be reinstated with intent to circumvent this section.

(4) Division (B) of this section does not apply to any person serving on a permanent basis on March 28, 1985, as a park officer, forest officer, preserve officer, wildlife officer, or state watercraft officer of the department of natural resources or as an employee of a park district under section 511.232 or 1545.13 of the Revised Code, to any person serving on a permanent basis on March 6, 1986, as an employee of a conservancy district designated pursuant to section 6101.75 of the Revised Code, to any person serving on a permanent basis on January 10, 1991, as a preserve officer of the department of natural resources, to any person employed on a permanent basis on July 2, 1992, as a special police officer by the department of mental

health pursuant to section 5119.14 of the Revised Code or by the department of mental retardation and developmental disabilities pursuant to section 5123.13 of the Revised Code, to any person serving on a permanent basis on ~~the effective date of this amendment~~ May 17, 2000, as a special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code, to any person serving on a permanent basis on June 19, 1978, as a state university law enforcement officer pursuant to section 3345.04 of the Revised Code and who, immediately prior to June 19, 1978, was serving as a special police officer designated under authority of that section, or to any person serving on a permanent basis on September 20, 1984, as a liquor control investigator, known after June 30, 1999, as an enforcement agent of the department of public safety, engaged in the enforcement of Chapters 4301. and 4303. of the Revised Code.

(5) Division (B) of this section does not apply to any person who is appointed as a regional transit authority police officer pursuant to division (Y) of section 306.35 of the Revised Code if, on or before July 1, 1996, the person has completed satisfactorily an approved state, county, municipal, or department of natural resources peace officer basic training program and has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of such an approved program and if, on July 1, 1996, the person is performing peace officer functions for a regional transit authority.

(C) No person, after September 20, 1984, shall receive an original appointment on a permanent basis as ~~an Ohio~~ a veterans' home police officer designated under section 5907.02 of the Revised Code unless the person previously has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved police officer basic training program. Every person who is appointed on a temporary basis or for a probationary term or on other than a permanent basis as ~~an Ohio~~ a veterans' home police officer designated under section 5907.02 of the Revised Code shall forfeit that position unless the person previously has completed satisfactorily or, within one year from the time of appointment, satisfactorily completes an approved police officer basic training program.

(D) No bailiff or deputy bailiff of a court of record of this state and no criminal investigator who is employed by the state public defender shall carry a firearm, as defined in section 2923.11 of the Revised Code, while on duty unless the bailiff, deputy bailiff, or criminal investigator has done or received one of the following:

(1) Has been awarded a certificate by the executive director of the Ohio

peace officer training commission, which certificate attests to satisfactory completion of an approved state, county, or municipal basic training program for bailiffs and deputy bailiffs of courts of record and for criminal investigators employed by the state public defender that has been recommended by the Ohio peace officer training commission;

(2) Has successfully completed a firearms training program approved by the Ohio peace officer training commission prior to employment as a bailiff, deputy bailiff, or criminal investigator;

(3) Prior to June 6, 1986, was authorized to carry a firearm by the court that employed the bailiff or deputy bailiff or, in the case of a criminal investigator, by the state public defender and has received training in the use of firearms that the Ohio peace officer training commission determines is equivalent to the training that otherwise is required by division (D) of this section.

(E)(1) Prior to awarding any certificate prescribed in this section, the executive director of the Ohio peace officer training commission shall request the person to whom the certificate is to be awarded to disclose, and the person shall disclose, any previous criminal conviction of or plea of guilty of that person to a felony.

(2) Prior to the award by the executive director of the commission of any certificate prescribed in this section, the prospective employer of the person to whom the certificate is to be awarded or the commander of the peace officer training school attended by that person shall request the bureau of criminal identification and investigation to conduct a criminal history records check on the person. Upon receipt of the request, the bureau promptly shall conduct a criminal history records check on the person and, upon completion of the check, promptly shall provide a copy of the criminal history records check to the prospective employer or peace officer training school commander that made the request. Upon receipt of the copy of the criminal history records check from the bureau, the prospective employer or peace officer training school commander that made the request shall submit the copy to the executive director of the Ohio peace officer training commission. The executive director shall not award any certificate prescribed in this section unless the executive director has received a copy of the criminal history records check on the person to whom the certificate is to be awarded.

(3) The executive director of the commission shall not award a certificate prescribed in this section to a person who has been convicted of or has pleaded guilty to a felony or who fails to disclose any previous criminal conviction of or plea of guilty to a felony as required under division

(E)(1) of this section.

(4) The executive director of the commission shall revoke the certificate awarded to a person as prescribed in this section, and that person shall forfeit all of the benefits derived from being certified as a peace officer under this section, if the person, prior to the award of the certificate, failed to disclose any previous criminal conviction of or plea of guilty to a felony as required under division (E)(1) of this section.

(F)(1) Regardless of whether the person has been awarded the certificate or has been classified as a peace officer prior to, on, or after October 16, 1996, the executive director of the Ohio peace officer training commission shall revoke any certificate that has been awarded to a person as prescribed in this section if the person does either of the following:

(a) Pleads guilty to a felony committed on or after January 1, 1997.

(b) Pleads guilty to a misdemeanor committed on or after January 1, 1997, pursuant to a negotiated plea agreement as provided in division (D) of section 2929.29 of the Revised Code in which the person agrees to surrender the certificate awarded to the person under this section.

(2) The executive director of the commission shall suspend any certificate that has been awarded to a person as prescribed in this section if the person is convicted, after trial, of a felony committed on or after January 1, 1997. The executive director shall suspend the certificate pursuant to division (F)(2) of this section pending the outcome of an appeal by the person from that conviction to the highest court to which the appeal is taken or until the expiration of the period in which an appeal is required to be filed. If the person files an appeal that results in that person's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against that person, the executive director shall reinstate the certificate awarded to the person under this section. If the person files an appeal from that person's conviction of the felony and the conviction is upheld by the highest court to which the appeal is taken or if the person does not file a timely appeal, the executive director shall revoke the certificate awarded to the person under this section.

(G)(1) If a person is awarded a certificate under this section and the certificate is revoked pursuant to division (E)(4) or (F) of this section, the person shall not be eligible to receive, at any time, a certificate attesting to the person's satisfactory completion of a peace officer basic training program.

(2) The revocation or suspension of a certificate under division (E)(4) or (F) of this section shall be in accordance with Chapter 119. of the Revised Code.

(H)(1) A person who was employed as a peace officer of a county, township, or municipal corporation of the state on January 1, 1966, and who has completed at least sixteen years of full-time active service as such a peace officer may receive an original appointment on a permanent basis and serve as a peace officer of a county, township, or municipal corporation, or as a state university law enforcement officer, without complying with the requirements of division (B) of this section.

(2) Any person who held an appointment as a state highway trooper on January 1, 1966, may receive an original appointment on a permanent basis and serve as a peace officer of a county, township, or municipal corporation, or as a state university law enforcement officer, without complying with the requirements of division (B) of this section.

(I) No person who is appointed as a peace officer of a county, township, or municipal corporation on or after April 9, 1985, shall serve as a peace officer of that county, township, or municipal corporation unless the person has received training in the handling of missing children and child abuse and neglect cases from an approved state, county, township, or municipal police officer basic training program or receives the training within the time prescribed by rules adopted by the attorney general pursuant to section 109.741 of the Revised Code.

(J) No part of any approved state, county, or municipal basic training program for bailiffs and deputy bailiffs of courts of record and no part of any approved state, county, or municipal basic training program for criminal investigators employed by the state public defender shall be used as credit toward the completion by a peace officer of any part of the approved state, county, or municipal peace officer basic training program that the peace officer is required by this section to complete satisfactorily.

(K) This section does not apply to any member of the police department of a municipal corporation in an adjoining state serving in this state under a contract pursuant to section 737.04 of the Revised Code.

Sec. 122.171. (A) As used in this section:

(1) "Capital investment project" means a plan of investment at a project site for the acquisition, construction, renovation, or repair of buildings, machinery, or equipment, or for capitalized costs of basic research and new product development determined in accordance with generally accepted accounting principles, but does not include any of the following:

(a) Payments made for the acquisition of personal property through operating leases;

(b) Project costs paid before January 1, 2002, or after December 31, 2006;

(c) Payments made to a related member as defined in section 5733.042 of the Revised Code.

(2) "Eligible business" means a business with Ohio operations ~~that~~ satisfying all of the following:

(a) Employed an average of at least one thousand employees in full-time employment positions at a project site during each of the twelve months preceding the application for a tax credit under this section; and

(b) On or after January 1, 2002, has made payments for the capital investment project of ~~at either of the following:~~

(i) At least two hundred million dollars at the project site during a period of three consecutive calendar years ~~that includes~~ including the calendar year that includes a day of the taxpayer's taxable year with respect to which the credit is granted;

(ii) If the average wage of all employment positions at the project site is greater than four hundred per cent of the federal minimum wage, at least one hundred million dollars at the project site during a period of three consecutive calendar years including the calendar year that includes a day of the taxpayer's taxable year with respect to which the credit is granted.

(c) Is engaged at the project site primarily as a manufacturer or is providing significant corporate administrative functions;

(d) Has had a capital investment project reviewed and approved by the tax credit authority as provided in divisions (C), (D), and (E) of this section.

(3) "Full-time employment position" means a position of employment for consideration for at least thirty-five hours a week, ~~or any other standard of service generally accepted by custom as full-time employment within the industry,~~ that has been filled for at least one hundred eighty days immediately preceding the filing of an application under this section, and for at least one hundred eighty days during each taxable year with respect to which the credit is granted.

(4) "Manufacturer" has the same meaning as in section 5739.011 of the Revised Code.

(5) "Project site" means an integrated complex of facilities in this state, as specified by the tax credit authority under this section, within a ~~five-mile~~ fifteen-mile radius where a taxpayer in this state is primarily operating as a manufacturer as defined in section 5739.011 of the Revised Code.

(B) The tax credit authority created under section 122.17 of the Revised Code may grant tax credits under this section for the purpose of fostering job retention in this state. Upon application by an eligible business and upon consideration of the recommendation of the director of budget and management, tax commissioner, and director of development under division

(C) of this section, the tax credit authority may grant to an eligible business a nonrefundable credit against the tax imposed by section 5733.06 or 5747.02 of the Revised Code for a period up to ten taxable years. The credit shall be in an amount not exceeding seventy-five per cent of the Ohio income tax withheld from the employees of the eligible business occupying full-time employment positions at the project site during the calendar year that includes the last day of such business' taxable year with respect to which the credit is granted. The amount of the credit shall not be based on the Ohio income tax withheld from full-time employees for a calendar year prior to the calendar year in which the ~~two hundred million dollar~~ minimum investment requirement referred to in division (A)(2)(b) of this section is completed. The credit shall be claimed only for the taxable years specified in the eligible business' agreement with the tax credit authority under division (E) of this section, but in no event shall the credit be claimed for a taxable year terminating before the date specified in the agreement.

Any unused portion of a tax credit may be carried forward for not more than three additional years after the year for which the credit is granted.

(C) A taxpayer ~~who~~ that proposes a capital investment project to retain 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 shall forward copies of the application to the director of budget and management, the tax commissioner, and the director of development, each of whom shall review the application to determine the economic impact the proposed project would have on the state and the affected political subdivisions and shall submit a summary of their determinations and recommendations to the authority. The authority shall make no agreements under this section after June 30, 2007.

(D) Upon review of the determinations and recommendations described in division (C) of this section, the tax credit authority may enter into an agreement with the taxpayer for a credit under this section if ~~it~~ the authority determines all of the following:

(1) The taxpayer's capital investment project will result in the retention of full-time employment positions in this state.

(2) The taxpayer is economically sound and has the ability to complete the proposed capital investment project.

(3) The taxpayer intends to and has the ability to maintain operations at the project site for at least twice the term of the credit.

(4) Receiving the credit is a major factor in the taxpayer's decision to begin, continue with, or complete the project.

(5) The political subdivisions in which the project is located have agreed to provide substantial financial support to the project.

(E) 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, including the amount of the investment, the period over which the investment has been or is being made, and the number of full-time employment positions at the project site;

(2) The method of calculating the number of full-time employment positions as specified in division (A)(3) of this section;

(3) The term and percentage of the tax credit, and the first year for which the credit may be claimed;

(4) A requirement that the taxpayer maintain operations at the project site for at least twice the number of years as the term of the credit;

(5) A requirement that the taxpayer retain a specified number of full-time employment positions at the project site and within this state for the term of the credit, including a requirement that the taxpayer continue to employ at least one thousand employees in full-time employment positions at the project site during the entire term of any agreement, subject to division (E)(7) of this section;

(6) A requirement that the taxpayer annually report to the director of development the number of full-time employment positions subject to the credit, the amount of tax withheld from employees in those positions, the amount of the payments made for the capital investment project, and any other information the director needs to perform the director's duties under this section;

(7) A requirement that the director of development annually review the annual reports of the taxpayer to verify the information reported under division (E)(6) of this section and compliance with the agreement. Upon verification, the director shall issue a certificate to the taxpayer stating that the information has been verified and identifying the amount of the credit for the taxable year. The director shall not issue a certificate for any year in which the total number of filled full-time employment positions for each day of the calendar year divided by three hundred sixty-five is less than ninety per cent of the full-time employment positions specified in division (E)(5) of this section. In determining the number of full-time employment positions, no position shall be counted that is filled by an employee who is included in the calculation of a tax credit under section 122.17 of the Revised Code.

(8)(a) A provision requiring that the taxpayer, except as otherwise provided in division (E)(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 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 unless the movement is confined to the project site. 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.

(9) A waiver by the taxpayer of any limitations periods relating to assessments or adjustments resulting from the taxpayer's failure to comply with the agreement.

(F) 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 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.

(G) Financial statements and other information submitted to the department of development or the tax credit authority by an applicant for 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 other information submitted by an applicant for or recipient of a tax credit in connection with the credit. The commissioner shall preserve the confidentiality of the statement or other information.

(H) A taxpayer claiming a tax credit under this section shall submit to the tax commissioner a copy of the director of development's certificate of verification under division (E)(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) 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 tax 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.

(J) If the director of development determines that a taxpayer ~~who has that~~ received a tax credit under this section is not complying with the requirement under division (E)(4) of this section ~~or reduces the number of employees agreed to under division (E)(5) of this section by more than ten per cent~~, 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 authority may terminate the agreement and require the taxpayer to refund to the state all or a portion of the credit claimed in previous years, as follows:

(1) If the taxpayer maintained operations at the project site for less than the term of the credit, the amount required to be refunded shall not exceed the amount of any tax credits previously allowed and received under this section.

(2) If the taxpayer maintained operations at the project site longer than the term of the credit but less than one and one-half times the term of the credit, the amount required to be refunded shall not exceed fifty per cent of the sum of any tax credits previously allowed and received under this section.

(3) If the taxpayer maintained operations at the project site for at least one and one-half times the term of the credit but less than twice the term of the credit, the amount required to be refunded shall not exceed twenty-five per cent of the sum of any tax credits previously allowed and received under this section.

In determining the portion of the credit to be refunded to this state, the 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.

If the director of development determines that a taxpayer that received a tax credit under this section has reduced the number of employees agreed to under division (E)(5) of this section by more than ten per cent, the director shall notify the tax credit authority of the noncompliance. After receiving such notice, and after providing the taxpayer an opportunity to explain the noncompliance, the authority may amend the agreement to reduce the percentage or term of the tax credit. The reduction in the percentage or term shall take effect in the taxable year in which the authority amends the agreement.

(K) 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.

(L) On or before the thirty-first day of March of 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.

Sec. 123.024. (A) The department of administrative services shall assign and make available, at state expense, suitable office space in state-owned facilities to accommodate the office operations of the state headquarters of all of the following:

(1) All veterans organizations in this state that either are incorporated and issued a charter by the congress of the United States or are recognized by the United States department of veterans affairs;

(2) The auxiliary organizations of veterans organizations described in division (A)(1) of this section;

(3) The Ohio veterans' home agency.

(B) The department may situate office space for each auxiliary organization of a veterans organization with or near the office space of that veterans organization.

Sec. 123.10. (A) The director of administrative services shall regulate the rate of tolls to be collected on the public works of the state, and shall fix all rentals and collect all tolls, rents, fines, commissions, fees, and all other revenues arising from any source in the public works, including the sale, construction, purchase, or rental of property.

(B) There is hereby created in the state treasury the state architect's fund which shall consist of money received by the department of administrative services under division (A) of this section, transfers of money to the fund authorized by the general assembly, and such percentage of the investment earnings of the administrative building fund created in section 152.101 of the Revised Code as the director of budget and management determines to be appropriate. Money in the fund shall be used by the department of administrative services for the following purposes:

(1) To pay personnel and other administrative expenses of the department;

(2) To pay the cost of conducting evaluations of public works;

(3) To pay the cost of building design specifications;

(4) To pay the cost of providing project management services;

(5) Any other purposes that the director of administrative services determines to be necessary for the department to execute its duties under this chapter.

Sec. 124.381. Each employee of the department of rehabilitation and correction, the department of mental health, the department of mental retardation and developmental disabilities, the Ohio veteran's home agency, or the Ohio schools for the deaf and blind, and each employee of the

partment of youth services as established in division (A) of section 124.14 of the Revised Code who suffers bodily injury inflicted by an inmate, patient, client, youth, or student in the facilities of these agencies during the time the employee is lawfully carrying out the assigned duties of the employee's position shall be paid the employee's total rate of pay during the period the employee is disabled as a result of that injury, but in no case to exceed one hundred twenty work days, in lieu of workers' compensation. Pay made according to this section shall not be charged to the employee's accumulation of sick leave credit.

The director of administrative services shall adopt rules for the administration of the occupational injury leave program. The rules shall include, but not be limited to, provisions for determining a disability, for filing a claim for leave under this section, and for allowing or denying claims for the leave.

During the time an employee is receiving injury compensation as provided in this section, the employee shall be exempt from the accumulation of vacation leave credit under section 124.134 of the Revised Code but shall continue to receive sick leave credit and personal leave credit under sections 124.382 and 124.386 of the Revised Code.

In any case when an employee's disability, as covered by this section, extends beyond one hundred twenty work days, the employee shall immediately become subject to sections 124.382 and 124.385 of the Revised Code regarding sick leave and disability leave benefits.

An appointing authority may apply to the director of administrative services to grant injury leave in accordance with this section to law enforcement personnel employed by the agency.

Sec. 124.82. (A) Except as provided in division (D) of this section, the department of administrative services, in consultation with the superintendent of insurance, shall, in accordance with competitive selection procedures of Chapter 125. of the Revised Code, contract with an insurance company or a health plan in combination with an insurance company, authorized to do business in this state, for the issuance of a policy or contract of health, medical, hospital, dental, or surgical benefits, or any combination of those benefits, covering state employees who are paid directly by warrant of the auditor of state, including elected state officials. The department may fulfill its obligation under this division by exercising its authority under division (A)(2) of section 124.81 of the Revised Code.

(B) The department may, in addition, in consultation with the superintendent of insurance, negotiate and contract with health insuring corporations holding a certificate of authority under Chapter 1751. of the

Revised Code, in their approved service areas only, for issuance of a contract or contracts of health care services, covering state employees who are paid directly by warrant of the auditor of state, including elected state officials. Except for health insuring corporations, no more than one insurance carrier or health plan shall be contracted with to provide the same plan of benefits, provided that:

(1) The amount of the premium or cost for such coverage contributed by the state, for an individual or for an individual and the individual's family, does not exceed that same amount of the premium or cost contributed by the state under division (A) of this section;

(2) The employee be permitted to exercise the option as to which plan the employee will select under division (A) or (B) of this section, at a time that shall be determined by the department;

(3) The health insuring corporations do not refuse to accept the employee, or the employee and the employee's family, if the employee exercises the option to select care provided by the corporations;

(4) The employee may choose participation in only one of the plans sponsored by the department;

(5) The director of health examines and certifies to the department that the quality and adequacy of care rendered by the health insuring corporations meet at least the standards of care provided by hospitals and physicians in that employee's community, who would be providing such care as would be covered by a contract awarded under division (A) of this section.

(C) All or any portion of the cost, premium, or charge for the coverage in divisions (A) and (B) of this section may be paid in such manner or combination of manners as the department determines and may include the proration of health care costs, premiums, or charges for part-time employees.

(D) Notwithstanding division (A) of this section, the department may provide benefits equivalent to those that may be paid under a policy or contract issued by an insurance company or a health plan pursuant to division (A) of this section.

(E) This section does not prohibit the state office of collective bargaining from entering into an agreement with an employee representative for the purposes of providing fringe benefits, including, but not limited to, hospitalization, surgical care, major medical care, disability, dental care, vision care, medical care, hearing aids, prescription drugs, group life insurance, sickness and accident insurance, group legal services or other benefits, or any combination ~~thereof~~ of those benefits, to employees paid

directly by warrant of the auditor of state through a jointly administered trust fund. The employer's contribution for the cost of the benefit care shall be mutually agreed to in the collectively bargained agreement. The amount, type, and structure of fringe benefits provided under this division is subject to the determination of the board of trustees of the jointly administered trust fund. Notwithstanding any other provision of the Revised Code, competitive bidding does not apply to the purchase of fringe benefits for employees under this division when ~~such~~ those benefits are provided through a jointly administered trust fund.

(F) Members of state boards ~~and or~~ commissions ~~who are members of the public employees retirement system~~ may be covered by any policy, contract, or plan of benefits or services described in division (A) or (B) of this section ~~if they~~. Board or commission members who are appointed for a fixed term and who are compensated on a per meeting basis, or paid only for expenses, or receive a combination of per diem payments and expenses shall pay the entire amount of the premiums, costs, or charges for that coverage.

Sec. 133.20. (A) This section applies to bonds that are general obligation Chapter 133. securities. If the bonds are payable as to principal by provision for annual installments, the period of limitations on their last maturity, referred to as their maximum maturity, shall be measured from a date twelve months prior to the first date on which provision for payment of principal is made. If the bonds are payable as to principal by provision for semiannual installments, the period of limitations on their last maturity shall be measured from a date six months prior to the first date on which provision for payment of principal is made.

(B) Bonds issued for the following permanent improvements or for permanent improvements for the following purposes shall have maximum maturities not exceeding the number of years stated:

(1) Fifty years:

(a) The clearance and preparation of real property for redevelopment as an urban redevelopment project;

(b) Acquiring, constructing, widening, relocating, enlarging, extending, and improving a publicly owned railroad or line of railway or a light or heavy rail rapid transit system, including related bridges, overpasses, underpasses, and tunnels, but not including rolling stock or equipment;

cted useful life of the bridge deck as determined by the county engineer under that section.

(2) Forty years:

(a) General waterworks or water system permanent improvements, including buildings, water mains, or other structures and facilities in connection therewith;

(b) Sewers or sewage treatment or disposal works or facilities, including fireproof buildings or other structures in connection therewith;

(c) Storm water drainage, surface water, and flood prevention facilities.

(3) Thirty-five years: sports facilities.

(4) Thirty years:

(a) Municipal recreation, excluding recreational equipment;

(b) Urban redevelopment projects;

(c) Acquisition of real property;

(d) Street or alley lighting purposes or relocating overhead wires, cables, and appurtenant equipment underground.

(5) Twenty years: constructing, reconstructing, widening, opening, improving, grading, draining, paving, extending, or changing the line of roads, highways, expressways, freeways, streets, sidewalks, alleys, or curbs and gutters, and related bridges, viaducts, overpasses, underpasses, grade crossing eliminations, service and access highways, and tunnels.

(6) Fifteen years:

(a) Resurfacing roads, highways, streets, or alleys;

(b) Alarm, telegraph, or other communications systems for police or fire departments or other emergency services;

(c) Passenger buses used for mass transportation;

(d) Energy conservation measures as authorized by section 133.06 of the Revised Code.

(7) Ten years:

(a) Water meters;

(b) Fire department apparatus and equipment;

(c) Road rollers and other road construction and servicing vehicles;

(d) Furniture, equipment, and furnishings;

(e) Landscape planting and other site improvements;

(f) Playground, athletic, and recreational equipment and apparatus;

(g) Energy conservation measures as authorized by section 307.041, 505.264, or 717.02 of the Revised Code.

(8) Five years: New motor vehicles other than those described in any other division of this section and those for which provision is made in other provisions of the Revised Code.

(C) Bonds issued for any permanent improvements not within the categories set forth in division (B) of this section shall have maximum maturities of from five to thirty years as the fiscal officer estimates is the estimated life or period of usefulness of those permanent improvements. Bonds issued under section 133.51 of the Revised Code for purposes other than permanent improvements shall have the maturities, not to exceed forty years, that the taxing authority shall specify.

(D) Securities issued under section 505.265 or 717.07 of the Revised Code shall mature not later than December 31, 2035.

(E) A securities issue for one purpose may include permanent improvements within two or more categories under divisions (B) and (C) of this section. The maximum maturity of such a bond issue shall not exceed the average number of years of life or period of usefulness of the permanent improvements as measured by the weighted average of the amounts expended or proposed to be expended for the categories of permanent improvements.

Sec. 145.01. As used in this chapter:

(A) "Public employee" means:

(1) Any person holding an office, not elective, under the state or any county, township, municipal corporation, park district, conservancy district, sanitary district, health district, metropolitan housing authority, state retirement board, Ohio historical society, public library, county law library, union cemetery, joint hospital, institutional commissary, state university, or board, bureau, commission, council, committee, authority, or administrative body as the same are, or have been, created by action of the general assembly or by the legislative authority of any of the units of local government named in division (A)(1) of this section, or employed and paid in whole or in part by the state or any of the authorities named in division (A)(1) of this section in any capacity not covered by section 742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code.

(2) A person who is a member of the public employees retirement system and who continues to perform the same or similar duties under the direction of a contractor who has contracted to take over what before the date of the contract was a publicly operated function. The governmental unit with which the contract has been made shall be deemed the employer for the purposes of administering this chapter.

(3) Any person who is an employee of a public employer, notwithstanding that the person's compensation for that employment is derived from funds of a person or entity other than the employer. Credit for such service shall be included as total service credit, provided that the

ye makes the payments required by this chapter, and the employer makes the payments required by sections 145.48 and 145.51 of the Revised Code.

(4) A person who elects in accordance with section 145.015 of the Revised Code to remain a contributing member of the public employees retirement system.

In all cases of doubt, the public employees retirement board shall determine whether any person is a public employee, and its decision is final.

(B) "Member" means any public employee, other than a public employee excluded or exempted from membership in the retirement system by section 145.03, 145.031, 145.032, 145.033, 145.034, 145.035, or 145.38 of the Revised Code. "Member" includes a PERS retirant who becomes a member under division (C) of section 145.38 of the Revised Code. "Member" also includes a disability benefit recipient.

(C) "Head of the department" means the elective or appointive head of the several executive, judicial, and administrative departments, institutions, boards, and commissions of the state and local government as the same are created and defined by the laws of this state or, in case of a charter government, by that charter.

(D) "Employer" or "public employer" means the state or any county, township, municipal corporation, park district, conservancy district, sanitary district, health district, metropolitan housing authority, state retirement board, Ohio historical society, public library, county law library, union cemetery, joint hospital, institutional commissary, state medical college, state university, or board, bureau, commission, council, committee, authority, or administrative body as the same are, or have been, created by action of the general assembly or by the legislative authority of any of the units of local government named in this division not covered by section 742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code. In addition, "employer" means the employer of any public employee.

(E) "Prior service" means all service as a public employee rendered before January 1, 1935, and all service as an employee of any employer who comes within the state teachers retirement system or of the school employees retirement system or of any other retirement system established under the laws of this state rendered prior to January 1, 1935, provided that if the employee claiming the service was employed in any capacity covered by that other system after that other system was established, credit for the service may be allowed by the public employees retirement system only when the employee has made payment, to be computed on the salary earned from the date of appointment to the date membership was established in the public employees retirement system, at the rate in effect at the time of

payment, and the employer has made payment of the corresponding full liability as provided by section 145.44 of the Revised Code. "Prior service" also means all service credited for active duty with the armed forces of the United States as provided in section 145.30 of the Revised Code.

If an employee who has been granted prior service credit by the public employees retirement system for service rendered prior to January 1, 1935, as an employee of a board of education establishes, before retirement, one year or more of contributing service in the state teachers retirement system or school employees retirement system, then the prior service ceases to be the liability of this system.

If the board determines that a position of any member in any calendar year prior to January 1, 1935, was a part-time position, the board shall determine what fractional part of a year's credit shall be allowed by the following formula:

(1) When the member has been either elected or appointed to an office the term of which was two or more years and for which an annual salary is established, the fractional part of the year's credit shall be computed as follows:

First, when the member's annual salary is one thousand dollars or less, the service credit for each such calendar year shall be forty per cent of a year.

Second, for each full one hundred dollars of annual salary above one thousand dollars, the member's service credit for each such calendar year shall be increased by two and one-half per cent.

(2) When the member is paid on a per diem basis, the service credit for any single year of the service shall be determined by using the number of days of service for which the compensation was received in any such year as a numerator and using two hundred fifty days as a denominator.

(3) When the member is paid on an hourly basis, the service credit for any single year of the service shall be determined by using the number of hours of service for which the compensation was received in any such year as a numerator and using two thousand hours as a denominator.

(F) "Contributor" means any person who has an account in the employees' savings fund created by section 145.23 of the Revised Code. When used in the sections listed in division (B) of section 145.82 of the Revised Code, "contributor" includes any person participating in a PERS defined contribution plan.

(G) "Beneficiary" or "beneficiaries" means the estate or a person or persons who, as the result of the death of a member, contributor, or retiree, qualify for or are receiving some right or benefit under this chapter.

(H)(1) "Total service credit," except as provided in section 145.37 of the Revised Code, means all service credited to a member of the retirement system since last becoming a member, including restored service credit as provided by section 145.31 of the Revised Code; credit purchased under sections 145.293 and 145.299 of the Revised Code; all the member's prior service credit; all the member's military service credit computed as provided in this chapter; all service credit established pursuant to section 145.297 of the Revised Code; and any other service credited under this chapter. In addition, "total service credit" includes any period, not in excess of three years, during which a member was out of service and receiving benefits under Chapters 4121. and 4123. of the Revised Code. For the exclusive purpose of satisfying the service credit requirement and of determining eligibility for benefits under sections 145.32, 145.33, 145.331, 145.35, 145.36, and 145.361 of the Revised Code, "five or more years of total service credit" means sixty or more calendar months of contributing service in this system.

(2) "One and one-half years of contributing service credit," as used in division (B) of section 145.45 of the Revised Code, also means eighteen or more calendar months of employment by a municipal corporation that formerly operated its own retirement plan for its employees or a part of its employees, provided that all employees of that municipal retirement plan who have eighteen or more months of such employment, upon establishing membership in the public employees retirement system, shall make a payment of the contributions they would have paid had they been members of this system for the eighteen months of employment preceding the date membership was established. When that payment has been made by all such employee members, a corresponding payment shall be paid into the employers' accumulation fund by that municipal corporation as the employer of the employees.

(3) Where a member also is a member of the state teachers retirement system or the school employees retirement system, or both, except in cases of retirement on a combined basis pursuant to section 145.37 of the Revised Code or as provided in section 145.383 of the Revised Code, service credit for any period shall be credited on the basis of the ratio that contributions to the public employees retirement system bear to total contributions in all state retirement systems.

(4) Not more than one year of credit may be given for any period of twelve months.

(5) "Ohio service credit" means credit for service that was rendered to the state or any of its political subdivisions or any employer.

(I) "Regular interest" means interest at any rates for the respective funds and accounts as the public employees retirement board may determine from time to time.

(J) "Accumulated contributions" means the sum of all amounts credited to a contributor's individual account in the employees' savings fund together with any interest credited to the contributor's account under section 145.471 or 145.472 of the Revised Code.

(K)(1) "Final average salary" means the quotient obtained by dividing by three the sum of the three full calendar years of contributing service in which the member's earnable salary was highest, except that if the member has a partial year of contributing service in the year the member's employment terminates and the member's earnable salary for the partial year is higher than for any comparable period in the three years, the member's earnable salary for the partial year shall be substituted for the member's earnable salary for the comparable period during the three years in which the member's earnable salary was lowest.

(2) If a member has less than three years of contributing service, the member's final average salary shall be the member's total earnable salary divided by the total number of years, including any fraction of a year, of the member's contributing service.

(3) For the purpose of calculating benefits payable to a member qualifying for service credit under division (Z) of this section, "final average salary" means the total earnable salary on which contributions were made divided by the total number of years during which contributions were made, including any fraction of a year. If contributions were made for less than twelve months, "final average salary" means the member's total earnable salary.

(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) "Annuity reserve" means the present value, computed upon the basis of the mortality and other tables adopted by the board, of all payments to be made on account of any annuity, or benefit in lieu of any annuity, granted to a retirant as provided in this chapter.

(N)(1) "Disability retirement" means retirement as provided in section 145.36 of the Revised Code.

(2) "Disability allowance" means an allowance paid on account of disability under section 145.361 of the Revised Code.

(3) "Disability benefit" means a benefit paid as disability retirement

under section 145.36 of the Revised Code, as a disability allowance under section 145.361 of the Revised Code, or as a disability benefit under section 145.37 of the Revised Code.

(4) "Disability benefit recipient" means a member who is receiving a disability benefit.

(O) "Age and service retirement" means retirement as provided in sections 145.32, 145.33, 145.331, 145.34, 145.37, and 145.46 of the Revised Code.

(P) "Pensions" means annual payments for life derived from contributions made by the employer that at the time of retirement are credited into the annuity and pension reserve fund from the employers' accumulation fund and paid from the annuity and pension reserve fund as provided in this chapter. All pensions shall be paid in twelve equal monthly installments.

(Q) "Retirement allowance" means the pension plus that portion of the benefit derived from contributions made by the member.

(R)(1) Except as otherwise provided in division (R) of this section, "earnable salary" means all salary, wages, and other earnings paid to a contributor by reason of employment in a position covered by the retirement system. 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 145.47 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. "Earnable salary" includes the following:

(a) Payments made by the employer in lieu of salary, wages, or other earnings for sick leave, personal leave, or vacation used by the contributor;

(b) Payments made by the employer for the conversion of sick leave, personal leave, and vacation leave accrued, but not used if the payment is made during the year in which the leave is accrued, except that payments made pursuant to section 124.383 or 124.386 of the Revised Code are not earnable salary;

(c) Allowances paid by the employer for full maintenance, consisting of housing, laundry, and meals, as certified to the retirement board by the employer or the head of the department that employs the contributor;

(d) Fees and commissions paid under section 507.09 of the Revised Code;

(e) Payments that are made under a disability leave program sponsored by the employer and for which the employer is required by section 145.296 of the Revised Code to make periodic employer and employee

contributions;

(f) Amounts included pursuant to divisions (K)(3) and (Y) of this section.

(2) "Earnable salary" does not include any of the following:

(a) Fees and commissions, other than those paid under section 507.09 of the Revised Code, paid as sole compensation for personal services and fees and commissions for special services over and above services for which the contributor receives a salary;

(b) 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;

(c) Incidental benefits, including lodging, food, laundry, parking, or services furnished by the employer, or use of the employer's property or equipment, or amounts paid by the employer to the contributor in lieu of providing the incidental benefits;

(d) Reimbursement for job-related expenses authorized by the employer, including moving and travel expenses and expenses related to professional development;

(e) Payments for accrued but unused sick leave, personal leave, or vacation that are made at any time other than in the year in which the sick leave, personal leave, or vacation was accrued;

(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;

(g) Payments made under division (B), (C), or (E) of section 5923.05 of the Revised Code, Section 4 of Substitute Senate Bill No. 3 of the 119th general assembly, Section 3 of Amended Substitute Senate Bill No. 164 of the 124th general assembly, or Amended Substitute House Bill No. 405 of the 124th 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 earnable salary 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 resulting from the

payments.

(3) The retirement board shall determine by rule whether any compensation not enumerated in division (R) of this section is earnable salary, and its decision shall be final.

(S) "Pension reserve" means the present value, computed upon the basis of the mortality and other tables adopted by the board, of all payments to be made on account of any retirement allowance or benefit in lieu of any retirement allowance, granted to a member or beneficiary under this chapter.

(T)(1) "Contributing service" means all service credited to a member of the system since January 1, 1935, for which contributions are made as required by sections 145.47, 145.48, and 145.483 of the Revised Code. In any year subsequent to 1934, credit for any service shall be allowed by the following formula:

(a) For each month for which the member's earnable salary is two hundred fifty dollars or more, allow one month's credit.

(b) For each month for which the member's earnable salary is less than two hundred fifty dollars, allow a fraction of a month's credit. The numerator of this fraction shall be the earnable salary during the month, and the denominator shall be two hundred fifty dollars, except that if the member's annual earnable salary is less than six hundred dollars, the member's credit shall not be reduced below twenty per cent of a year for a calendar year of employment during which the member worked each month. Division (T)(1)(b) of this section shall not reduce any credit earned before January 1, 1985.

(2) Notwithstanding division (T)(1) of this section, an elected official who prior to January 1, 1980, was granted a full year of credit for each year of service as an elected official shall be considered to have earned a full year of credit for each year of service regardless of whether the service was full-time or part-time. The public employees retirement board has no authority to reduce the credit.

(U) "State retirement board" means the public employees retirement board, the school employees retirement board, or the state teachers retirement board.

(V) "Retirant" means any former member who retires and is receiving a monthly allowance as provided in sections 145.32, 145.33, 145.331, 145.34, and 145.46 of the Revised Code.

(W) "Employer contribution" means the amount paid by an employer as determined under section 145.48 of the Revised Code.

(X) "Public service terminates" means the last day for which a public employee is compensated for services performed for an employer or the date

of the employee's death, whichever occurs first.

(Y) When a member has been elected or appointed to an office, the term of which is two or more years, for which an annual salary is established, and in the event that the salary of the office is increased and the member is denied the additional salary by reason of any constitutional provision prohibiting an increase in salary during a term of office, the member may elect to have the amount of the member's contributions calculated upon the basis of the increased salary for the office. At the member's request, the board shall compute the total additional amount the member would have contributed, or the amount by which each of the member's contributions would have increased, had the member received the increased salary for the office the member holds. If the member elects to have the amount by which the member's contribution would have increased withheld from the member's salary, the member shall notify the employer, and the employer shall make the withholding and transmit it to the retirement system. A member who has not elected to have that amount withheld may elect at any time to make a payment to the retirement system equal to the additional amount the member's contribution would have increased, plus interest on that contribution, compounded annually at a rate established by the board and computed from the date on which the last contribution would have been withheld from the member's salary to the date of payment. A member may make a payment for part of the period for which the increased contribution was not withheld, in which case the interest shall be computed from the date the last contribution would have been withheld for the period for which the payment is made. Upon the payment of the increased contributions as provided in this division, the increased annual salary as provided by law for the office for the period for which the member paid increased contributions thereon shall be used in determining the member's earnable salary for the purpose of computing the member's final average salary.

(Z) "Five years of service credit," for the exclusive purpose of satisfying the service credit requirements and of determining eligibility for benefits under section 145.33 of the Revised Code, means employment covered under this chapter or under a former retirement plan operated, recognized, or endorsed by the employer prior to coverage under this chapter or under a combination of the coverage.

(AA) "Deputy sheriff" means any person who is commissioned and employed as a full-time peace officer by the sheriff of any county, and has been so employed since on or before December 31, 1965, and whose primary duties are to preserve the peace, to protect life and property, and to enforce the laws of this state; any person who is or has been commissioned

and employed as a peace officer by the sheriff of any county since January 1, 1966, and who has received a certificate attesting to the person's satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code and whose primary duties are to preserve the peace, protect life and property, and enforce the laws of this state; or any person deputized by the sheriff of any county and employed pursuant to section 2301.12 of the Revised Code as a criminal bailiff or court constable who has received a certificate attesting to the person's satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code and whose primary duties are to preserve the peace, protect life and property, and enforce the laws of this state.

(BB) "Township constable or police officer in a township police department or district" means any person who is commissioned and employed as a full-time peace officer pursuant to Chapter 505. or 509. of the Revised Code, who has received a certificate attesting to the person's satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code, and whose primary duties are to preserve the peace, protect life and property, and enforce the laws of this state.

(CC) "Drug agent" means any person who is either of the following:

(1) Employed full-time as a narcotics agent by a county narcotics agency created pursuant to section 307.15 of the Revised Code and has received a certificate attesting to the satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code;

(2) Employed full-time as an undercover drug agent as defined in section 109.79 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(DD) "Department of public safety enforcement agent" means a full-time employee of the department of public safety who is designated under section 5502.14 of the Revised Code as an enforcement agent and who is in compliance with section 109.77 of the Revised Code.

(EE) "Natural resources law enforcement staff officer" means a full-time employee of the department of natural resources who is designated a natural resources law enforcement staff officer under section 1501.013 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(FF) "Park officer" means a full-time employee of the department of natural resources who is designated a park officer under section 1541.10 of the Revised Code and is in compliance with section 109.77 of the Revised

Code.

(GG) "Forest officer" means a full-time employee of the department of natural resources who is designated a forest officer under section 1503.29 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(HH) "Preserve officer" means a full-time employee of the department of natural resources who is designated a preserve officer under section 1517.10 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(II) "Wildlife officer" means a full-time employee of the department of natural resources who is designated a wildlife officer under section 1531.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(JJ) "State watercraft officer" means a full-time employee of the department of natural resources who is designated a state watercraft officer under section 1547.521 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(KK) "Park district police officer" means a full-time employee of a park district who is designated pursuant to section 511.232 or 1545.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(LL) "Conservancy district officer" means a full-time employee of a conservancy district who is designated pursuant to section 6101.75 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(MM) "Municipal police officer" means a member of the organized police department of a municipal corporation who is employed full-time, is in compliance with section 109.77 of the Revised Code, and is not a member of the Ohio police and fire pension fund.

(NN) "~~Ohio veterans'~~ Veterans' home police officer" means any person who is employed at ~~the Ohio a~~ veterans' home as a police officer pursuant to section 5907.02 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(OO) "Special police officer for a mental health institution" means any person who is designated as such pursuant to section 5119.14 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(PP) "Special police officer for an institution for the mentally retarded and developmentally disabled" means any person who is designated as such pursuant to section 5123.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(QQ) "State university law enforcement officer" means any person who is employed full-time as a state university law enforcement officer pursuant to section 3345.04 of the Revised Code and who is in compliance with section 109.77 of the Revised Code.

(RR) "House sergeant at arms" means any person appointed by the speaker of the house of representatives under division (B)(1) of section 101.311 of the Revised Code who has arrest authority under division (E)(1) of that section.

(SS) "Assistant house sergeant at arms" means any person appointed by the house sergeant at arms under division (C)(1) of section 101.311 of the Revised Code.

(TT) "Regional transit authority police officer" means a person who is employed full time as a regional transit authority police officer under division (Y) of section 306.35 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(UU) "State highway patrol police officer" means a special police officer employed full time and designated by the superintendent of the state highway patrol pursuant to section 5503.09 of the Revised Code or a person serving full time as a special police officer pursuant to that section on a permanent basis on October 21, 1997, who is in compliance with section 109.77 of the Revised Code.

(VV) Notwithstanding section 2901.01 of the Revised Code, "PERS law enforcement officer" means a sheriff, deputy sheriff, township constable or police officer in a township police department or district, drug agent, department of public safety enforcement agent, natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, state watercraft officer, park district police officer, conservancy district officer, ~~Ohio~~ veterans' home police officer, special police officer for a mental health institution, special police officer for an institution for the mentally retarded and developmentally disabled, state university law enforcement officer, municipal police officer, house sergeant at arms, assistant house sergeant at arms, regional transit authority police officer, or state highway patrol police officer.

(WW) "Hamilton county municipal court bailiff" means a person appointed by the clerk of courts of the Hamilton county municipal court under division (A)(3) of section 1901.32 of the Revised Code who is employed full time as a bailiff or deputy bailiff, who has received a certificate attesting to the person's satisfactory completion of the peace officer basic training described in division (D)(1) of section 109.77 of the Revised Code, and whose primary duties are to preserve the peace, to

protect life and property, and to enforce the laws of this state.

(XX) "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.

(YY) "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.

(ZZ) "PERS defined benefit plan" means the plan described in sections 145.201 to 145.79 of the Revised Code.

(AAA) "PERS defined contribution plans" means the plan or plans established under section 145.81 of the Revised Code.

Sec. 145.012. (A) "Public employee," as defined in division (A) of section 145.01 of the Revised Code, does not include any person:

(1) Who is employed by a private, temporary-help service and performs services under the direction of a public employer or is employed on a contractual basis as an independent contractor under a personal service contract with a public employer;

(2) Who is an emergency employee serving on a temporary basis in case of fire, snow, earthquake, flood, or other similar emergency;

(3) Who is employed in a program established pursuant to the "Job Training Partnership Act," 96 Stat. 1322 (1982), 29 U.S.C.A. 1501;

(4) Who is an appointed member of either the motor vehicle salvage dealers board or the motor vehicle dealer's board whose rate and method of payment are determined pursuant to division (J) of section 124.15 of the Revised Code;

(5) Who is employed as an election worker and paid less than five hundred dollars per calendar year for that service;

(6) Who is employed as a firefighter in a position requiring satisfactory completion of a firefighter training course approved under former section 3303.07 or section 4765.55 of the Revised Code or conducted under section 3737.33 of the Revised Code except for the following:

(a) Any firefighter who has elected under section 145.013 of the

Revised Code to remain a contributing member of the public employees retirement system;

(b) Any firefighter who was eligible to transfer from the public employees retirement system to the Ohio police and fire pension fund under section 742.51 or 742.515 of the Revised Code and did not elect to transfer;

(c) Any firefighter who has elected under section 742.516 of the Revised Code to transfer from the Ohio police and fire pension fund to the public employees retirement system.

(7) Who is a member of the board of health of a city or general health district, which pursuant to sections 3709.051 and 3709.07 of the Revised Code includes a combined health district, and whose compensation for attendance at meetings of the board is set forth in division (B) of section 3709.02 or division (B) of section 3709.05 of the Revised Code, as appropriate;

(8) Who participates in an alternative retirement plan established under Chapter 3305. of the Revised Code;

(9) Who is a member of the board of directors of a sanitary district established under Chapter 6115. of the Revised Code.

(B) No inmate of a correctional institution operated by the department of rehabilitation and correction, no patient in a hospital for the mentally ill or criminally insane operated by the department of mental health, no resident in an institution for the mentally retarded operated by the department of mental retardation and developmental disabilities, no resident admitted as a patient of ~~the Ohio~~ a veterans' home at Sandusky operated under Chapter 5907. of the Revised Code, and no resident of a county home shall be considered as a public employee for the purpose of establishing membership or calculating service credit or benefits under this chapter. Nothing in this division shall be construed to affect any service credit attained by any person who was a public employee before becoming an inmate, patient, or resident at any institution listed in this division, or the payment of any benefit for which such a person or such a person's beneficiaries otherwise would be eligible.

Sec. 145.33. (A) Except as provided in division (B) or (C) of this section, a member with at least five years of total service credit who has attained age sixty, or who has thirty years of total Ohio service credit, may apply for age and service retirement, which shall consist of:

(1) An annuity having a reserve equal to the amount of the member's accumulated contributions at that time;

(2) A pension equal to the annuity provided by division (A)(1) of this section;

(3) An additional pension, if the member can qualify for prior service, equal to forty dollars multiplied by the number of years, and fraction thereof, of such prior and military service credit;

(4) A basic annual pension equal to one hundred eighty dollars if the member has ten or more years of total service credit as of October 1, 1956, except that the basic annual pension shall not exceed the sum of the annual benefits provided by divisions (A)(1), (2), and (3) of this section.

(5) When a member retires on age and service retirement, the member's total annual single lifetime allowance, including the allowances provided in divisions (A)(1), (2), (3), and (4) of this section, shall be not less than a base amount adjusted in accordance with division (A)(5) of this section and determined by multiplying the member's total service credit by the greater of the following:

(a) Eighty-six dollars;

(b) Two and two-tenths per cent of the member's final average salary for each of the first thirty years of service plus two and one-half per cent of the member's final average salary for each subsequent year of service.

The allowance shall be adjusted by the factors of attained age or years of service to provide the greater amount as determined by the following schedule:

Attained Birthday	or	Years of Total Service Credit	Percentage of Base Amount
58		25	75
59		26	80
60		27	85
61			88
		28	90
62			91
63			94
		29	95
64			97
65		30 or more	100

Members shall vest the right to a benefit in accordance with the following schedule, based on the member's attained age by September 1, 1976:

Attained Birthday	Percentage of Base Amount
66	102

67	104
68	106
69	108
70 or more	110

(6) The total annual single lifetime allowance that a member shall receive under division (A)(5) of this section shall not exceed the lesser of one hundred per cent of the member's final average salary or the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

(B)(1) For the purposes of divisions (B) to ~~(H)~~(G) of this section, "total service credit as a PERS law enforcement officer" and "total service credit as a Hamilton county municipal court bailiff" include credit for military service to the extent permitted by division ~~(F)~~(E)(2) of this section and credit for service as a police officer or state highway patrol trooper to the extent permitted by divisions ~~(F)~~(E)(3) and (4) of this section.

(2) A member who meets the conditions in division (B)(2)(a), (b), (c), or (d) of this section may apply for an age and service retirement benefit under this division:

(a) The member has attained age forty-eight and has at least twenty-five years of total service credit as a PERS law enforcement officer whose primary duties were to preserve the peace, protect life and property, and enforce the laws in the member's jurisdiction;

(b) The member has attained age fifty-two, and has at least twenty-five years of total service credit as a PERS law enforcement officer, but the member's primary duties were other than to preserve the peace, protect life and property, and enforce the laws in the member's jurisdiction;

(c) The member has attained age fifty-two and has at least twenty-five years of total service as a Hamilton county municipal court bailiff;

(d) The member has attained age sixty-two and has at least fifteen years of total service credit as either of the following:

(i) A PERS law enforcement officer;

(ii) A Hamilton county municipal court bailiff.

(3) A benefit paid under division (B)(2) of this section shall consist of an annual single lifetime allowance equal to the sum of two and one-half per cent of the member's final average salary multiplied by the first twenty-five years of the member's total service plus two and one-tenth per cent of the member's final average salary multiplied by the number of years of the member's total service credit in excess of twenty-five years.

(4) A member with at least fifteen years of total service credit as a PERS law enforcement officer or Hamilton county municipal court bailiff

who voluntarily resigns or is discharged for any reason except death, dishonesty, cowardice, intemperate habits, or conviction of a felony may apply for an age and service retirement benefit, which shall consist of an annual single lifetime allowance equal to one and one-half per cent of the member's final average salary multiplied by the number of years of the member's total service credit. The allowance shall commence on the first day of the calendar month following the month in which the application is filed with the public employees retirement board on or after the attainment by the applicant of age fifty-two.

(C)(1) A member with at least twenty-five years of total service credit who would be eligible to retire under division (B)(2)(b) or (c) of this section had the member attained age fifty-two and who voluntarily resigns or is discharged for any reason except death, dishonesty, cowardice, intemperate habits, or conviction of a felony, on or after the date of attaining forty-eight years of age, but before the date of attaining fifty-two years of age, may elect to receive a reduced benefit as determined by the following schedule:

Attained Age	Reduced Benefit
48	75% of the benefit payable under division (B)(3) of this section
49	80% of the benefit payable under division (B)(3) of this section
50	86% of the benefit payable under division (B)(3) of this section
51	93% of the benefit payable under division (B)(3) of this section

(2) If a member elects to receive a reduced benefit after attaining age forty-eight the reduced benefit is payable from the later of the date of the member's most recent birthday or the date the member becomes eligible to receive the reduced benefit.

(3) Once a member elects to receive a reduced benefit determined by the schedule in division (C)(1) of this section and has received a payment, the member may not reelect to change that election.

(4) If a member who has resigned or been discharged has left on deposit the member's accumulated contributions in the employees' savings fund and has not elected to receive a reduced benefit determined by the schedule in division (C)(1) of this section, upon attaining fifty-two years of age, the member shall be entitled to receive a benefit computed and paid under division (B)(3) of this section.

(D) A benefit paid under division (B) or (C) of this section shall not exceed the lesser of ninety per cent of the member's final average salary or

the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

(E)(1) A member with service credit as a PERS law enforcement officer or a Hamilton county municipal court bailiff and other service credit under this chapter may elect one of the following:

(a) To have all the member's service credit under this chapter, including credit for service as a PERS law enforcement officer or Hamilton county municipal court bailiff, used in calculating a retirement allowance under division (A) of this section if the member qualifies for an allowance under that division;

(b) If the member qualifies for an allowance under division (B) or (C) of this section, to have the member's service credit as a PERS law enforcement officer or Hamilton county municipal court bailiff used in calculating a benefit under the appropriate division and the member's credit for all service other than PERS law enforcement service or service as a Hamilton county municipal court bailiff under this chapter used in calculating a benefit consisting of a single life annuity having a reserve equal to the amount of the member's accumulated contributions and an equal amount of the employer's contributions.

(2) Notwithstanding sections 145.01 and 145.30 of the Revised Code, no more than four years of military service credit granted under section 145.30 of the Revised Code and five years of military service credit purchased under section 145.301 or 145.302 of the Revised Code shall be used in calculating service as a PERS law enforcement officer or Hamilton county municipal court bailiff or the total service credit of that person.

(3) Only credit for the member's service as a PERS law enforcement officer or service credit obtained as a police officer or state highway patrol trooper shall be used in computing the benefit of a member who qualifies for a benefit under division (B)(2)(a), (b), or (d)(ii) or (4) or division (C) of this section for the following:

(a) Any person who originally is commissioned and employed as a deputy sheriff by the sheriff of any county, or who originally is elected sheriff, on or after January 1, 1975;

(b) Any deputy sheriff who originally is employed as a criminal bailiff or court constable on or after April 16, 1993;

(c) Any person who originally is appointed as a township constable or police officer in a township police department or district on or after January 1, 1981;

(d) Any person who originally is employed as a county narcotics agent on or after September 26, 1984;

(e) Any person who originally is employed as an undercover drug agent as defined in section 109.79 of the Revised Code, department of public safety enforcement agent who prior to June 30, 1999, was a liquor control investigator, park officer, forest officer, wildlife officer, state watercraft officer, park district police officer, conservancy district officer, ~~Ohio~~ veterans' home police officer, special police officer for a mental health institution, special police officer for an institution for the mentally retarded and developmentally disabled, or municipal police officer on or after December 15, 1988;

(f) Any person who originally is employed as a state university law enforcement officer on or after November 6, 1996;

(g) Any person who is originally employed as a state university law enforcement officer by the university of Akron on or after September 16, 1998;

(h) Any person who originally is employed as a preserve officer on or after March 18, 1999;

(i) Any person who originally is employed as a natural resources law enforcement staff officer on or after March 18, 1999;

(j) Any person who is originally employed as a department of public safety enforcement agent on or after June 30, 1999;

(k) Any person who is originally employed as a house sergeant at arms or assistant house sergeant at arms on or after September 5, 2001;

(l) Any person who is originally appointed as a regional transit authority police officer or state highway patrol police officer on or after ~~the effective date of this amendment~~ February 1, 2002.

(4) Only credit for a member's service as a Hamilton county municipal court bailiff or service credit obtained as a PERS law enforcement officer, police officer, or state highway patrol trooper shall be used in computing the benefit of a member who qualifies for a benefit under division (B)(2)(c) or (d)(ii) or (4) or division (C) of this section for any person who originally is employed as a Hamilton county municipal court bailiff on or after November 6, 1996.

~~(G)~~(F) Retirement allowances determined under this section shall be paid as provided in section 145.46 of the Revised Code.

~~(H)~~(G) For the purposes of this section, service prior to June 30, 1999, as a food stamp trafficking agent under former section 5502.14 of the Revised Code shall be considered service as a law enforcement officer.

Sec. 151.01. (A) As used in sections 151.01 to 151.09 and 151.40 of the Revised Code and in the applicable bond proceedings unless otherwise provided:

(1) "Bond proceedings" means the resolutions, orders, agreements, and credit enhancement facilities, and amendments and supplements to them, or any one or more or combination of them, authorizing, awarding, or providing for the terms and conditions applicable to or providing for the security or liquidity of, the particular obligations, and the provisions contained in those obligations.

(2) "Bond service fund" means the respective bond service fund created by section 151.03, 151.04, 151.05, 151.06, 151.07, 151.08, 151.09, or 151.40 of the Revised Code, and any accounts in that fund, including all moneys and investments, and earnings from investments, credited and to be credited to that fund and accounts as and to the extent provided in the applicable bond proceedings.

(3) "Capital facilities" means capital facilities or projects as referred to in section 151.03, 151.04, 151.05, 151.06, 151.07, 151.08, 151.09, or 151.40 of the Revised Code.

(4) "Costs of capital facilities" means the costs of acquiring, constructing, reconstructing, rehabilitating, remodeling, renovating, enlarging, improving, equipping, or furnishing capital facilities, and of the financing of those costs. "Costs of capital facilities" includes, without limitation, and in addition to costs referred to in section 151.03, 151.04, 151.05, 151.06, 151.07, 151.08, 151.09, or 151.40 of the Revised Code, the cost of clearance and preparation of the site and of any land to be used in connection with capital 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 issuing authority, costs of engineering and architectural services, designs, plans, specifications, surveys, and estimates of cost, financing costs, interest on obligations from their date to the time when interest is to be paid from sources other than proceeds of obligations, amounts necessary to establish any reserves as required by the bond proceedings, the reimbursement of all moneys advanced or applied by or borrowed from any person or governmental agency or entity for the payment of any item of costs of capital facilities, and all other expenses necessary or incident to planning or determining feasibility or practicability with respect to capital 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 capital facilities, the financing of those costs, and the placing of the capital facilities in use and operation, including any one, part of, or combination of those classes of costs and expenses.

(5) "Credit enhancement facilities," "financing costs," and "interest" or "interest equivalent" have the same meanings as in section 133.01 of the Revised Code.

(6) "Debt service" means principal, including any mandatory sinking fund or redemption requirements for retirement of obligations, interest and other accreted amounts, interest equivalent, and any redemption premium, payable on obligations. If not prohibited by the applicable bond proceedings, debt service ~~includes~~ may include costs relating to credit enhancement facilities that are related to and represent, or are intended to provide a source of payment of or limitation on, other debt service.

(7) "Issuing authority" means the Ohio public facilities commission created in section 151.02 of the Revised Code for obligations issued under section 151.03, 151.04, 151.05, 151.07, or 151.09 of the Revised Code, or the treasurer of state, or the officer who by law performs the functions of that office, for obligations issued under section 151.06, 151.08, or 151.40 of the Revised Code.

(8) "Net proceeds" means amounts received from the sale of obligations, excluding amounts used to refund or retire outstanding obligations, amounts required to be deposited into special funds pursuant to the applicable bond proceedings, and amounts to be used to pay financing costs.

(9) "Obligations" means bonds, notes, or other evidences of obligation of the state, including any appertaining interest coupons, issued pursuant to sections 151.01 to 151.09 or 151.40 of the Revised Code.

(10) "Principal amount" means the aggregate of the amount as stated or provided for in the applicable bond proceedings as the amount on which interest or interest equivalent on particular obligations is initially calculated. Principal amount does not include any premium paid to the state by the initial purchaser of the obligations. "Principal amount" of a capital appreciation bond, as defined in division (C) of section 3334.01 of the Revised Code, means its face amount, and "principal amount" of a zero coupon bond, as defined in division (J) of section 3334.01 of the Revised Code, means the discounted offering price at which the bond is initially sold to the public, disregarding any purchase price discount to the original purchaser, if provided for pursuant to the bond proceedings.

(11) "Special funds" or "funds," unless the context indicates otherwise, means the bond service fund, and any other funds, including any reserve funds, created under the bond proceedings and stated to be special funds in those proceedings, including moneys and investments, and earnings from investments, credited and to be credited to the particular fund. Special funds do not include the school building program assistance fund created by

ction 3318.25 of the Revised Code, the higher education improvement fund created by division (F) of section 154.21 of the Revised Code, the highway capital improvement bond fund created by section 5528.53 of the Revised Code, the state parks and natural resources fund created by section 1557.02 of the Revised Code, the coal research and development fund created by section 1555.15 of the Revised Code, the clean Ohio conservation fund created by section 164.27 of the Revised Code, the clean Ohio revitalization fund created by section 122.658 of the Revised Code, or other funds created by the bond proceedings that are not stated by those proceedings to be special funds.

(B) Subject to Section 2l, 2m, 2n, 2o, or 15, and Section 17, of Article VIII, Ohio Constitution, the state, by the issuing authority, is authorized to issue and sell, as provided in sections 151.03 to 151.09 or 151.40 of the Revised Code, and in respective aggregate principal amounts as from time to time provided or authorized by the general assembly, general obligations of this state for the purpose of paying costs of capital facilities or projects identified by or pursuant to general assembly action.

(C) Each issue of obligations shall be authorized by resolution or order of the issuing authority. The bond proceedings shall provide for or authorize the manner for determining the principal amount or maximum principal amount of obligations of an issue, the principal maturity or maturities, the interest rate or rates, the date of and the dates of payment of interest on the obligations, their denominations, and the place or places of payment of debt service which may be within or outside the state. Unless otherwise provided by law, the latest principal maturity may not be later than the earlier of the thirty-first day of December of the twenty-fifth calendar year after the year of issuance of the particular obligations or of the twenty-fifth calendar year after the year in which the original obligation to pay was issued or entered into. Sections 9.96, 9.98, 9.981, 9.982, and 9.983 of the Revised Code apply to obligations. The purpose of the obligations may be stated in the bond proceedings in general terms, such as, as applicable, "financing or assisting in the financing of projects as provided in Section 2l of Article VIII, Ohio Constitution," "financing or assisting in the financing of highway capital improvement projects as provided in Section 2m of Article VIII, Ohio Constitution," "paying costs of capital facilities for a system of common schools throughout the state as authorized by Section 2n of Article VIII, Ohio Constitution," "paying costs of capital facilities for state-supported and state-assisted institutions of higher education as authorized by Section 2n of Article VIII, Ohio Constitution," "paying costs of coal research and development as authorized by Section 15 of Article VIII, Ohio

Constitution," "financing or assisting in the financing of local subdivision capital improvement projects as authorized by Section 2m of Article VIII, Ohio Constitution," "paying costs of conservation projects as authorized by Section 2o of Article VIII, Ohio Constitution," or "paying costs of revitalization projects as authorized by Section 2o of Article VIII, Ohio Constitution."

(D) The issuing authority may appoint or provide for the appointment of paying agents, bond registrars, securities depositories, clearing corporations, and transfer agents, and may without need for any other approval retain or contract for the services of underwriters, investment bankers, financial advisers, accounting experts, marketing, remarketing, indexing, and administrative agents, other consultants, and independent contractors, including printing services, as are necessary in the judgment of the issuing authority to carry out the issuing authority's functions under this chapter. When the issuing authority is the Ohio public facilities commission, the issuing authority also may without need for any other approval retain or contract for the services of attorneys and other professionals for that purpose. Financing costs are payable, as may be provided in the bond proceedings, from the proceeds of the obligations, from special funds, or from other moneys available for the purpose.

(E) The bond proceedings may contain additional provisions customary or appropriate to the financing or to the obligations or to particular obligations including, but not limited to, provisions for:

(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, and at particular price or prices and under particular terms and conditions;

(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, in lieu of the applicability of provisions of Chapter 131. or 135. of the Revised Code, but subject to any special provisions of sections 151.01 to 151.09 or 151.40 of the Revised Code with respect to the application of particular funds or moneys. Any financial institution that acts as a depository of any moneys in special funds or other funds under the bond proceedings may furnish indemnifying bonds or pledge securities as required by the issuing authority.

(4) Any or every provision of the bond proceedings being binding upon the issuing authority and upon such governmental agency or entity, officer, board, commission, authority, agency, department, institution, district, or other person or body as may from time to time be authorized to take actions as may be necessary to perform all or any part of the duty required by the

provision;

(5) The maintenance of each pledge or instrument comprising part of the bond proceedings until the state has fully paid or provided for the payment of the debt service 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 by any other agreement of the issuing authority made as part of a contract under which the obligations were issued or secured, including a credit enhancement facility, the enforcement of those payments by mandamus, a suit in equity, an action at law, or any combination of those remedial actions;

(7) The rights and remedies of the holders or owners of obligations or of book-entry interests in them, and of third parties under any credit enhancement facility, and provisions for protecting and enforcing those rights and remedies, including limitations on rights of individual holders or owners;

(8) The replacement of mutilated, destroyed, lost, or stolen obligations;

(9) The funding, refunding, or advance refunding, or other provision for payment, of obligations that will then no longer be outstanding for purposes of this section or of the applicable bond proceedings;

(10) Amendment of the bond proceedings;

(11) Any other or additional agreements with the owners of obligations, and such other provisions as the issuing authority determines, including limitations, conditions, or qualifications, relating to any of the foregoing.

(F) The great seal of the state or a facsimile of it may be affixed to or printed on the obligations. The obligations requiring execution by or for the issuing authority shall be signed as provided in the bond proceedings. Any obligations may be signed by the individual who on the date of execution is the authorized signer although on the date of these obligations that individual is not an authorized signer. In case the individual whose signature or facsimile signature appears on any obligation ceases to be an authorized signer before delivery of the obligation, that signature or facsimile is nevertheless valid and sufficient for all purposes as if that individual had remained the authorized signer until delivery.

(G) Obligations are investment securities under Chapter 1308. of the Revised Code. Obligations may be issued in bearer or in registered form, registrable as to principal alone or as to both principal and interest, or both, or in certificated or uncertificated form, as the issuing authority determines. Provision may be made for the exchange, conversion, or transfer of obligations and for reasonable charges for registration, exchange, conversion, and transfer. Pending preparation of final obligations, the

issuing authority may provide for the issuance of interim instruments to be exchanged for the final obligations.

(H) Obligations may be sold at public sale or at private sale, in such manner, and at such price at, above or below par, all as determined by and provided by the issuing authority in the bond proceedings.

(I) Except to the extent that rights are restricted by the bond proceedings, any owner of obligations or provider of a credit enhancement facility may by any suitable form of legal proceedings protect and enforce any rights relating to obligations or that facility under the laws of this state or granted by the bond proceedings. Those rights include the right to compel the performance of all applicable duties of the issuing authority and the state. Each duty of the issuing authority and that authority's officers, staff, and employees, and of each state entity or agency, or using district or using institution, and its officers, members, staff, or employees, undertaken pursuant to the bond proceedings, is hereby established as a duty of the entity or individual having authority to perform that duty, specifically enjoined by law and resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code. The individuals who are from time to time the issuing authority, members or officers of the issuing authority, or those members' designees acting pursuant to section 154.02 of the Revised Code, or the issuing authority's officers, staff, or employees, are not liable in their personal capacities on any obligations or otherwise under the bond proceedings.

(J)(1) Subject to Section 2l, 2m, 2n, 2o, or 15, and Section 17, of Article VIII, Ohio Constitution and sections 151.01 to 151.09 or 151.40 of the Revised Code, the issuing authority may, in addition to the authority referred to in division (B) of this section, authorize and provide for the issuance of:

(a) Obligations in the form of bond anticipation notes, and may provide for the renewal of those notes from time to time by the issuance of new notes. The holders of notes or appertaining interest coupons have the right to have debt service on those notes paid solely from the moneys and special funds that are or may be pledged to that payment, including the proceeds of bonds or renewal notes or both, as the issuing authority provides in the bond proceedings authorizing the notes. Notes may be additionally secured by covenants of the issuing authority to the effect that the issuing authority and the state will do all things necessary for the issuance of bonds or renewal notes in such principal amount and upon such terms as may be necessary to provide moneys to pay when due the debt service on the notes, and apply their proceeds to the extent necessary, to make full and timely payment of

debt service on the notes as provided in the applicable bond proceedings. In the bond proceedings authorizing the issuance of bond anticipation notes the issuing authority shall set forth for the bonds anticipated an estimated schedule of annual principal payments the latest of which shall be no later than provided in division (C) of this section. 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 debt service 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.

(b) 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. Refunding obligations may be issued in amounts sufficient to pay or to provide for repayment of the principal amount, including principal amounts maturing prior to the redemption of the remaining prior obligations, any redemption premium, and interest accrued or to accrue to the maturity or redemption date or dates, payable on the prior obligations, and related financing costs and any expenses incurred or to be incurred in connection with that issuance and refunding. Subject to the applicable bond proceedings, the portion of the proceeds of the sale of refunding obligations issued under division (J)(1)(b) of this section to be applied to debt service 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 issuing authority or by a corporate trustee. Obligations authorized under this division shall be considered to be issued for those purposes for which the prior obligations were issued.

(2) Except as otherwise provided in sections 151.01 to 151.09 or 151.40 of the Revised Code, bonds or notes authorized pursuant to division (J) of this section are subject to the provisions of those sections pertaining to obligations generally.

(3) The principal amount of refunding or renewal obligations issued pursuant to division (J) of this section shall be in addition to the amount authorized by the general assembly as referred to in division (B) of the following sections: section 151.03, 151.04, 151.05, 151.06, 151.07, 151.08, 151.09, or 151.40 of the Revised Code.

(K) Obligations are lawful investments for banks, savings and loan associations, credit union share guaranty corporations, trust companies, trustees, fiduciaries, insurance companies, including domestic for life and domestic not for life, trustees or other officers having charge of sinking and

bond retirement or other special funds of the state and political subdivisions and taxing districts of this state, the sinking fund, the administrator of workers' compensation subject to the approval of the workers' compensation board, the state teachers retirement system, the public employees retirement system, the school employees retirement system, and the Ohio police and fire pension fund, notwithstanding any other provisions of the Revised Code or rules adopted pursuant to those provisions by any state agency with respect to investments by them, and are also acceptable as security for the repayment of the deposit of public moneys. The exemptions from taxation in Ohio as provided for in particular sections of the Ohio Constitution and section 5709.76 of the Revised Code apply to the obligations.

(L)(1) Unless otherwise provided or provided for in any applicable bond proceedings, moneys to the credit of or in a special fund shall be disbursed on the order of the issuing authority. No such order is required for the payment, from the bond service fund or other special fund, when due of debt service or required payments under credit enhancement facilities.

(2) Payments received by the state under interest rate hedges entered into as credit enhancement facilities under this chapter shall be deposited to the credit of the bond service fund for the obligations to which those credit enhancement facilities relate.

(M) The full faith and credit, revenue, and taxing power of the state are and shall be pledged to the timely payment of debt service on outstanding obligations as it comes due, all in accordance with Section 2l, 2m, 2n, 2o, or 15 of Article VIII, Ohio Constitution, and section 151.03, 151.04, 151.05, 151.06, 151.07, 151.08, or 151.09 of the Revised Code. Moneys referred to in Section 5a of Article XII, Ohio Constitution, may not be pledged or used for the payment of debt service except on obligations referred to in section 151.06 of the Revised Code. Net state lottery proceeds, as provided for and referred to in section 3770.06 of the Revised Code, may not be pledged or used for the payment of debt service except on obligations referred to in section 151.03 of the Revised Code. The state covenants, and that covenant 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, shall, so long as any obligations are outstanding in accordance with their terms, maintain statutory authority for and cause to be levied, collected and applied sufficient pledged excises, taxes, and revenues of the state so that the revenues shall be sufficient in amounts to pay debt service when due, to establish and maintain any reserves and other requirements, and to pay financing costs, including costs of or relating to credit enhancement facilities, all as provided for in the bond proceedings.

Those excises, taxes, and revenues are and shall be deemed to be levied and collected, in addition to the purposes otherwise provided for by law, to provide for the payment of debt service and financing costs in accordance with sections 151.01 to 151.09 of the Revised Code and the bond proceedings.

(N) The general assembly may from time to time repeal or reduce any excise, tax, or other source of revenue pledged to the payment of the debt service pursuant to Section 2l, 2m, 2n, 2o, or 15 of Article VIII, Ohio Constitution, and sections 151.01 to 151.09 or 151.40 of the Revised Code, and may levy, collect and apply any new or increased excise, tax, or revenue to meet the pledge, to the payment of debt service on outstanding obligations, of the state's full faith and credit, revenue and taxing power, or of designated revenues and receipts, except fees, excises or taxes referred to in Section 5a of Article XII, Ohio Constitution, for other than obligations referred to in section 151.06 of the Revised Code and except net state lottery proceeds for other than obligations referred to in section 151.03 of the Revised Code. Nothing in division (N) of this section authorizes any impairment of the obligation of this state to levy and collect sufficient excises, taxes, and revenues to pay debt service on obligations outstanding in accordance with their terms.

(O) Each bond service fund is a trust fund and is hereby pledged to the payment of debt service on the applicable obligations. Payment of that debt service shall be made or provided for by the issuing authority in accordance with the bond proceedings without necessity for any act of appropriation. The bond proceedings may provide for the establishment of separate accounts in the bond service fund and for the application of those accounts only to debt service on specific obligations, and for other accounts in the bond service fund within the general purposes of that fund.

(P) Subject to the bond proceedings pertaining to any obligations then outstanding in accordance with their terms, the issuing authority may in the bond proceedings pledge all, or such portion as the issuing authority determines, of the moneys in the bond service fund to the payment of debt service on particular obligations, and for the establishment and maintenance of any reserves for payment of particular debt service.

(Q) The issuing authority shall by the fifteenth day of July of each fiscal year, certify or cause to be certified to the office of budget and management the total amount of moneys required during the current fiscal year to meet in full all debt service on the respective obligations and any related financing costs payable from the applicable bond service fund and not from the proceeds of refunding or renewal obligations. The issuing authority shall

make or cause to be made supplemental certifications to the office of budget and management for each debt service payment date and at such other times during each fiscal year as may be provided in the bond proceedings or requested by that office. Debt service, costs of credit enhancement facilities, and other financing costs shall be set forth separately in each certification. If and so long as the moneys to the credit of the bond service fund, together with any other moneys available for the purpose, are insufficient to meet in full all payments when due of the amount required as stated in the certificate or otherwise, the office of budget and management shall at the times as provided in the bond proceedings, and consistent with any particular provisions in sections 151.03 to 151.09 and 151.40 of the Revised Code, transfer a sufficient amount to the bond service fund from the pledged revenues in the case of obligations issued pursuant to section 151.40 of the Revised Code, and in the case of other obligations from the revenues derived from excises, taxes, and other revenues, including net state lottery proceeds in the case of obligations referred to in section 151.03 of the Revised Code.

(R) Unless otherwise provided in any applicable bond proceedings, moneys to the credit of special funds may be invested by or on behalf of the state only in one or more of the following:

(1) Notes, bonds, or other direct obligations of the United States or of any agency or instrumentality of the United States, or in no-front-end-load money market mutual funds consisting exclusively of those obligations, or in repurchase agreements, including those issued by any fiduciary, secured by those obligations, or in collective investment funds consisting exclusively of those obligations;

(2) Obligations of this state or any political subdivision of this state;

(3) 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;

(4) The treasurer of state's pooled investment program under section 135.45 of the Revised Code.

The income from investments referred to in division (R) of this section shall, unless otherwise provided in sections 151.01 to 151.09 or 151.40 of the Revised Code, be credited to special funds or otherwise as the issuing authority determines in the bond proceedings. Those investments may be sold or exchanged at times as the issuing authority determines, provides for, or authorizes.

(S) The treasurer of state shall have responsibility for keeping records, making reports, and making payments, relating to any arbitrage rebate

requirements under the applicable bond proceedings.

Sec. 151.40. (A) As used in this section:

(1) "Bond proceedings" includes any trust agreements, and any amendments or supplements to them, as authorized by this section.

(2) "Costs of revitalization projects" includes related direct administrative expenses and allocable portions of the direct costs of those projects of the department of development or the environmental protection agency.

(3) "Issuing authority" means the treasurer of state.

(4) "Obligations" means obligations as defined in section 151.01 of the Revised Code issued to pay the costs of projects for revitalization purposes as referred to in division (A)(2) of Section 2o of Article VIII, Ohio Constitution.

(5) "Pledged liquor profits" means all receipts of the state representing the gross profit on the sale of spirituous liquor, as referred to in division (B)(4) of section 4301.10 of the Revised Code, after paying all costs and expenses of the division of liquor control and providing an adequate working capital reserve for the division of liquor control as provided in that division, but excluding the sum required by the second paragraph of section 4301.12 of the Revised Code, as it was in effect on May 2, 1980, to be paid into the state treasury.

(6) "Pledged receipts" means, as and to the extent provided in bond proceedings:

(a) Pledged liquor profits. The pledge of pledged liquor profits to obligations is subject to the priority of the pledge of those profits to obligations issued and to be issued, ~~and guarantees made and to be made,~~ pursuant to Chapter 166. of the Revised Code.

(b) Moneys accruing to the state from the lease, sale, or other disposition or use of revitalization projects or from the repayment, including any interest, of loans or advances made from net proceeds;

(c) Accrued interest received from the sale of obligations;

(d) Income from the investment of the special funds;

(e) Any gifts, grants, donations, or pledges, and receipts therefrom, available for the payment of debt service;

(f) Additional or any other specific revenues or receipts lawfully available to be pledged, and pledged, pursuant to further authorization by the general assembly, to the payment of debt service.

(B) The issuing authority shall issue obligations of the state to pay costs of revitalization projects pursuant to division (B)(2) of Section 2o of Article VIII, Ohio Constitution, section 151.01 of the Revised Code as applicable to

this section, and this section. The issuing authority, upon the certification to it by the clean Ohio council of the amount of moneys needed in and for the purposes of the clean Ohio revitalization fund created by section 122.658 of the Revised Code, shall issue obligations in the amount determined by the issuing authority to be required for those purposes. The total principal amount of obligations issued under this section shall not exceed two hundred million dollars. The provisions and authorizations in section 151.01 of the Revised Code apply to the obligations and the bond proceedings except as otherwise provided or provided for in those obligations and bond proceedings.

(C) Net proceeds of obligations shall be deposited in the clean Ohio revitalization fund created in section 122.658 of the Revised Code.

(D) There is hereby created the revitalization projects bond service fund, which shall be in the custody of the treasurer of state, but shall be separate and apart from and not a part of the state treasury. All money received by the state and required by the bond proceedings, consistent with section 151.01 of the Revised Code and this section, to be deposited, transferred, or credited to the bond service fund, and all other money transferred or allocated to or received for the purposes of that fund, shall be deposited and credited to the bond service fund, subject to any applicable provisions of the bond proceedings, but without necessity for any act of appropriation. During the period beginning with the date of the first issuance of obligations and continuing during the time that any obligations are outstanding in accordance with their terms, so long as moneys in the bond service fund are insufficient to pay debt service when due on those obligations payable from that fund, except the principal amounts of bond anticipation notes payable from the proceeds of renewal notes or bonds anticipated, and due in the particular fiscal year, a sufficient amount of pledged receipts is committed and, without necessity for further act of appropriation, shall be paid to the bond service fund for the purpose of paying that debt service when due.

(E) The issuing authority may pledge all, or such portion as the issuing authority determines, of the pledged receipts to the payment of the debt 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 in the bond proceedings with respect to pledged receipts as authorized by this section, which provisions are controlling notwithstanding any other provisions of law pertaining to them.

(F) The issuing authority may covenant in the bond proceedings, and such covenants shall be controlling notwithstanding any other provision of

law, that the state and applicable officers and state agencies, including the general assembly, so long as any obligations issued under this section are outstanding, shall maintain statutory authority for and cause to be charged and collected wholesale or retail prices for spirituous liquor sold by the state or its agents so that the available pledged receipts are sufficient in time and amount to meet debt service payable from pledged liquor profits and for the establishment and maintenance of any reserves and other requirements provided for in the bond proceedings.

(G) Obligations may be further secured, as determined by the issuing authority, 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 resolution or order authorizing the issuance of the obligations, any provisions that may be contained in any bond proceedings, and other provisions that are customary or appropriate in an agreement of that type, including, but not limited to:

(1) Maintenance of each pledge, trust agreement, or other instrument comprising part of the bond proceedings until the state has fully paid or provided for the payment of debt service on the obligations secured by it;

(2) In the event of default in any payments required to be made by the bond proceedings, enforcement of those payments or agreements by mandamus, the appointment of a receiver, suit in equity, action at law, or any combination of them;

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

(H) The obligations shall not be general obligations of the state and the full faith and credit, revenue, and taxing power of the state shall not be pledged to the payment of debt service on them. The holders or owners of the obligations shall have no right to have any moneys obligated or pledged for the payment of debt service except as provided in this section and in the applicable bond proceedings. The rights of the holders and owners to payment of debt service are limited to all or that portion of the pledged receipts, and those special funds, pledged to the payment of debt service pursuant to the bond proceedings in accordance with this section, and each obligation shall bear on its face a statement to that effect.

Sec. 152.09. (A) As used in sections 152.06 and 152.09 to 152.33 of the Revised Code:

(1) "Obligations" means bonds, notes, or other evidences of obligation, including interest coupons pertaining thereto, issued pursuant to sections 152.09 to 152.33 of the Revised Code.

(2) "State agencies" means the state of Ohio and branches, officers, boards, commissions, authorities, departments, divisions, courts, general assembly, or other units or agencies of the state. "State agency" also includes counties, municipal corporations, and governmental entities of this state that enter into leases with the Ohio building authority pursuant to section 152.31 of the Revised Code or that are designated by law as state agencies for the purpose of performing a state function that is to be housed by a capital facility for which the Ohio building authority is authorized to issue revenue obligations pursuant to sections 152.09 to 152.33 of the Revised Code.

(3) "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 Ohio building authority on obligations.

(4) "Capital facilities" means buildings, structures, and other improvements, and equipment, real estate, and interests in real estate therefor, within the state, and any one, part of, or combination of the foregoing, for housing of branches and agencies of state government, including capital facilities for the purpose of housing personnel, equipment, or functions, or any combination thereof that the state agencies are responsible for housing, for which the Ohio building authority is authorized to issue obligations pursuant to Chapter 152. of the Revised Code, and includes storage and parking facilities related to such capital facilities.

(5) "Cost of capital facilities" means the costs of acquiring, constructing, reconstructing, rehabilitating, remodeling, renovating, enlarging, improving, altering, maintaining, equipping, furnishing, repairing, painting, decorating, managing, or operating capital 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 capital facilities, the cost of participating in capital facilities pursuant to section 152.33 of the Revised Code, 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 authority and lessee state agencies, cost of engineering and architectural services, designs, plans, specifications, surveys, and estimates of cost, legal fees, fees and expenses of trustees, depositories, and paying agents for the obligations, cost of issuance of the obligations and financing charges and fees and expenses of financial advisers and consultants in connection therewith, interest on obligations from the date thereof to the time when interest is to be covered from sources other than proceeds of obligations, amounts necessary to establish reserves as required by the resolutions or the

obligations, trust agreements, or indentures, costs of audits, the reimbursement of all moneys advanced or applied by or borrowed from any governmental entity, whether to or by the authority or others, from whatever source provided, for the payment of any item or items of cost of the capital facilities, any share of the cost undertaken by the authority pursuant to arrangements made with governmental entities under division (J) of section 152.21 of the Revised Code, and all other expenses necessary or incident to planning or determining the feasibility or practicability with respect to capital facilities, and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, rehabilitation, remodeling, renovation, enlargement, improvement, alteration, maintenance, equipment, furnishing, repair, painting, decoration, management, or operation of capital facilities, the financing thereof and the placing of the same in use and operation, including any one, part of, or combination of such classes of costs and expenses.

(6) "Governmental entity" means any state agency, municipal corporation, county, township, school district, and any other political subdivision or special district in this state established pursuant to law, and, except where otherwise indicated, also means the United States or any of the states or any department, division, or agency thereof, and any agency, commission, or authority established pursuant to an interstate compact or agreement.

(7) "Governing body" means:

(a) In the case of a county, the board of county commissioners or other legislative authority; in the case of a municipal corporation, the legislative authority; in the case of a township, the board of township trustees; in the case of a school district, the board of education;

(b) In the case of any other governmental entity, the officer, board, commission, authority, or other body having the general management of the entity or having jurisdiction or authority in the particular circumstances.

(8) "Available receipts" means fees, charges, revenues, grants, subsidies, income from the investment of moneys, proceeds from the sale of goods or services, and all other revenues or receipts received by or on behalf of any state agency for which capital facilities are financed with obligations issued under Chapter 152. of the Revised Code, any state agency participating in capital facilities pursuant to section 152.33 of the Revised Code, or any state agency by which the capital facilities are constructed or financed; revenues or receipts derived by the authority from the operation, leasing, or other disposition of capital facilities, and the proceeds of obligations issued under Chapter 152. of the Revised Code; and also any

moneys appropriated by a governmental entity, gifts, grants, donations, and pledges, and receipts therefrom, available for the payment of bond service charges on such obligations.

(B) Pursuant to the powers granted to the general assembly under Section 2i of Article VIII, Ohio Constitution, to authorize the issuance of revenue obligations and other obligations, the owners or holders of which are not given the right to have excises or taxes levied by the general assembly for the payment of principal thereof or interest thereon, the Ohio building authority may issue obligations, in accordance with Chapter 152. of the Revised Code, and shall cause the net proceeds thereof, after any deposits of accrued interest for the payment of bond service charges and after any deposit of all or such lesser portion as the authority may direct of the premium received upon the sale of those obligations for the payment of the bond service charges, to be applied to the costs of capital facilities designated by or pursuant to act of the general assembly for housing state agencies as authorized by Chapter 152. of the Revised Code. The authority shall provide by resolution for the issuance of such obligations. The bond service charges and all other payments required to be made by the trust agreement or indenture securing such obligations shall be payable solely from available receipts of the authority pledged thereto as provided in such resolution. The available receipts pledged and thereafter received by the authority 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 authority, irrespective of whether those parties have notice thereof, and creates a perfected security interest for all purposes of Chapter 1309. of the Revised Code and a perfected lien for purposes of any real property interest, all without the necessity for separation or delivery of funds or for the filing or recording of the resolution, trust agreement, indenture, or other agreement by which such pledge is created or any certificate, statement, or other document with respect thereto; and the pledge of such available receipts is effective and the money therefrom and thereof may be applied to the purposes for which pledged. Every pledge, and every covenant and agreement made with respect to the pledge, made in the resolution may therein be extended to the benefit of the owners and holders of obligations authorized by Chapter 152. of the Revised Code, and to any trustee therefor, for the further securing of the payment of the bond service charges, and all or any rights under any agreement or lease made under this section may be assigned for such purpose. Obligations may be issued at one time or from time to time, and each issue shall be dated, shall mature at such time or

times as determined by the authority not exceeding forty years from the date of issue, and may be redeemable before maturity at the option of the authority at such price or prices and under such terms and conditions as are fixed by the authority prior to the issuance of the obligations. The authority shall determine the form of the obligations, fix their denominations, establish their interest rate or rates, which may be a variable rate or rates, or the maximum interest rate, and establish within or without this state a place or places of payment of bond service charges.

(C) The obligations shall be signed by the authority chairperson, vice-chairperson, and secretary-treasurer, and the authority seal shall be affixed. The signatures may be facsimile signatures and the seal affixed may be a facsimile seal, as provided by resolution of the authority. Any coupons attached may bear the facsimile signature of the chairperson. In case any officer who has signed any obligations, or caused the officer's facsimile signature to be affixed thereto, ceases to be such officer before such obligations have been delivered, such obligations may, nevertheless, be issued and delivered as though the person who had signed the obligations or caused the person's facsimile signature to be affixed thereto had not ceased to be such officer.

Any obligations may be executed on behalf of the authority 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.

(D) All obligations issued by the authority shall have all the qualities and incidents of negotiable instruments and may be issued in coupon or in registered form, or both, as the 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. The authority may sell its obligations in any manner and for such prices as it determines, except that the authority shall sell obligations sold at public or private sale in accordance with section 152.091 of the Revised Code.

(E) The obligations of the authority, principal, interest, and any proceeds from their sale or transfer, are exempt from all taxation within this state.

(F) The authority is authorized to issue revenue obligations and other obligations under Section 2i of Article VIII, Ohio Constitution, for the purpose of paying the cost of capital facilities for housing of branches and

agencies of state government, including capital facilities for the purpose of housing personnel, equipment, or functions, or any combination thereof that the state agencies are responsible for housing, as are authorized by Chapter 152. of the Revised Code, and that are authorized by the general assembly by the appropriation of lease payments or other moneys for such capital facilities or by any other act of the general assembly, but not including the appropriation of moneys for feasibility studies for such capital facilities. This division does not authorize the authority to issue obligations pursuant to Section 2i of Article VIII, Ohio Constitution, to pay the cost of capital facilities for mental hygiene and retardation, parks and recreation, or state-supported or state-assisted institutions of higher education.

Sec. 152.10. The resolution of the Ohio building authority authorizing the issuance of authority obligations may contain provisions which shall be part of the contract with the holders of the obligations as to:

(A) Pledging all or such portion as it determines of the available receipts of the authority for the payment of bond service charges and all other payments required to be made by the trust agreement or indenture securing such obligations, or restricting the security for a particular issue of obligations to specific revenues or receipts of the authority;

(B) The acquisition, construction, reconstruction, equipment, furnishing, improvement, operation, alteration, enlargement, maintenance, insurance, and repair of capital facilities and sites therefor, and the duties of the authority with reference thereto;

(C) Other terms of the obligations;

(D) Limitations on the purposes to which the proceeds of the obligations may be applied;

(E) The rate of rentals or other charges for the use of capital facilities, the revenues from which are pledged to the obligations authorized by such resolution, including limitations upon the power of the authority to modify such rentals or other charges;

(F) The use of and the expenditures of the revenues of the authority in such manner and to such extent as shall be determined, which may include provision for the payment of the expenses of the operation, maintenance, and repair of capital facilities, and the operation and administration of the authority so that such expenses shall be paid or provided as a charge prior to the payment of bond service charges and all other payments required to be made by the trust agreement or indenture securing such obligations;

(G) Limitations on the issuance of additional obligations;

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

(I) Any other or additional agreements with the holders of the obligations, or the trustee therefor with respect to the operation of the authority and with respect to its property, funds, and revenues, and insurance thereof, and of the authority, its members, officers, and employees;

(J) The deposit and application of funds and the safeguarding of funds on hand or on deposit without regard to Chapter 131. of the Revised Code, including any deposits of accrued interest for the payment of bond service charges and any deposits of premium for the payment of bond service charges or for the application to the payment of costs of capital facilities;

(K) Municipal bond insurance, letters of credit, and other related agreements, the cost of which may be included in the costs of issuance of the obligations, and the pledge, holding, and disposition of the proceeds thereof;

(L) A covenant that the state and any using state agency shall, so long as such obligations are outstanding, cause to be charged and collected such revenues and receipts of, or from, any such using state agency constituting available receipts under the resolution sufficient in amount to provide for the payment of bond service charges on such obligations and for the establishment and maintenance of any reserves, as provided in the resolution for such obligations, which covenant shall be controlling notwithstanding any other provision of law ~~pertainng~~ pertaining to such revenues and receipts; provided that no covenant shall require the general assembly to appropriate money derived from the levying of excises or taxes for the payment of rent or bond service charges.

Sec. 152.101. There is hereby created in the state treasury the administrative building fund which shall consist of proceeds of obligations authorized to pay the cost of capital facilities. Except as provided in section 123.10 of the Revised Code, all investment earnings of the fund shall be credited to the fund. The fund shall be used to pay the costs of capital facilities designated by or pursuant to an act of the general assembly.

Sec. 166.01. As used in this chapter:

(A) "Allowable costs" means all or part of the costs of project facilities or eligible innovation projects, including costs of acquiring, constructing, reconstructing, rehabilitating, renovating, enlarging, improving, equipping, or furnishing project facilities or eligible innovation projects, site clearance and preparation, supplementing and relocating public capital improvements or utility facilities, designs, plans, specifications, surveys, studies, and estimates of costs, expenses necessary or incident to determining the feasibility or practicability of assisting an eligible project or an eligible

novation project or providing project facilities or facilities related to an eligible innovation project, architectural, engineering, and legal services fees and expenses, the costs of conducting any other activities as part of a voluntary action, and such other expenses as may be necessary or incidental to the establishment or development of an eligible project or an eligible innovation project, and reimbursement of moneys advanced or applied by any governmental agency or other person for allowable costs.

(B) "Allowable innovation costs" includes allowable costs of eligible innovation projects and, in addition, includes the costs of research and development of eligible innovation projects; obtaining or creating any requisite software or computer hardware related to an eligible innovation project or the products or services associated therewith; testing (including, without limitation, quality control activities necessary for initial production), perfecting, and marketing of such products and services; creating and protecting intellectual property related to an eligible innovation project or any products or services related thereto, including costs of securing appropriate patent, trademark, trade secret, trade dress, copyright, or other form of intellectual property protection for an eligible innovation project or related products and services; all to the extent that such expenditures could be capitalized under then-applicable generally accepted accounting principles; and the reimbursement of moneys advanced or applied by any governmental agency or other person for allowable innovation costs.

(C) "Eligible innovation project" includes an eligible project, including any project facilities associated with an eligible innovation project and, in addition, includes all tangible and intangible property related to a new product or process based on new technology or the creative application of existing technology, including research and development, product or process testing, quality control, market research, and related activities, that is to be acquired, established, expanded, remodeled, rehabilitated, or modernized for industry, commerce, distribution, or research, or any combination thereof, the operation of which, alone or in conjunction with other eligible projects, eligible innovation projects, or innovation property, will create new jobs or preserve existing jobs and employment opportunities and improve the economic welfare of the people of the state.

(D) "Eligible project" means project facilities to be acquired, established, expanded, remodeled, rehabilitated, or modernized for industry, commerce, distribution, or research, or any combination thereof, the operation of which, alone or in conjunction with other facilities, will create new jobs or preserve existing jobs and employment opportunities and improve the economic welfare of the people of the state. "Eligible project"

includes, without limitation, a voluntary action. For purposes of this division, "new jobs" does not include existing jobs transferred from another facility within the state, and "existing jobs" includes only those existing jobs with work places within the municipal corporation or unincorporated area of the county in which the eligible project is located.

"Eligible project" does not include project facilities to be acquired, established, expanded, remodeled, rehabilitated, or modernized for industry, commerce, distribution, or research, or any combination of industry, commerce, distribution, or research, if the project facilities consist solely of point-of-final-purchase retail facilities. If the project facilities consist of both point-of-final-purchase retail facilities and nonretail facilities, only the portion of the project facilities consisting of nonretail facilities is an eligible project. If a warehouse facility is part of a point-of-final-purchase retail facility and supplies only that facility, the warehouse facility is not an eligible project. Catalog distribution facilities are not considered point-of-final-purchase retail facilities for purposes of this paragraph, and are eligible projects.

~~(C)~~(E) "Financial assistance" means inducements under division (B) of section 166.02 of the Revised Code, loan guarantees under section 166.06 of the Revised Code, and direct loans under section 166.07 of the Revised Code.

~~(D)~~(F) "Governmental action" means any action by a governmental agency relating to the establishment, development, or operation of an eligible project or eligible innovation project and project facilities that the governmental agency acting has authority to take or provide for the purpose under law, including, but not limited to, actions relating to contracts and agreements, zoning, building, permits, acquisition and disposition of property, public capital improvements, utility and transportation service, taxation, employee recruitment and training, and liaison and coordination with and among governmental agencies.

~~(E)~~(G) "Governmental agency" means the state and any state department, division, commission, institution or authority; a municipal corporation, county, or township, and any agency thereof, and any other political subdivision or public corporation of the United States or any agency thereof; any agency, commission, or authority established pursuant to an interstate compact or agreement; and any combination of the above.

(H) "Innovation financial assistance" means inducements under division (B) of section 166.12 of the Revised Code, innovation Ohio loan guarantees under section 166.15 of the Revised Code, and innovation Ohio loans under section 166.16 of the Revised Code.

(I) "Innovation Ohio loan guarantee reserve requirement" means, at any time, with respect to innovation loan guarantees made under section 166.15 of the Revised Code, a balance in the innovation Ohio loan guarantee fund equal to the greater of twenty per cent of the then-outstanding principal amount of all outstanding innovation loan guarantees made pursuant to section 166.15 of the Revised Code or fifty per cent of the principal amount of the largest outstanding guarantee made pursuant to section 166.15 of the Revised Code.

(J) "Innovation property" includes property and also includes software, inventory, licenses, contract rights, goodwill, intellectual property, including without limitation, patents, patent applications, trademarks and service marks, and trade secrets, and other tangible and intangible property, and any rights and interests in or connected to the foregoing.

(K) "Loan guarantee reserve requirement" means, at any time, with respect to loan guarantees made under section 166.06 of the Revised Code, a balance in the loan guarantee fund equal to the greater of twenty per cent of the then-outstanding principal amount of all outstanding guarantees made pursuant to section 166.06 of the Revised Code or fifty per cent of the principal amount of the largest outstanding guarantee made pursuant to section 166.06 of the Revised Code.

~~(F)~~(L) "Person" means any individual, firm, partnership, association, corporation, or governmental agency, and any combination thereof.

~~(G)~~(M) "Project facilities" means buildings, structures, and other improvements, and equipment and other property, excluding small tools, supplies, and inventory, and any one, part of, or combination of the above, comprising all or part of, or serving or being incidental to, an eligible project or an eligible innovation project, including, but not limited to, public capital improvements.

~~(H)~~(N) "Property" means real and personal property and interests therein.

~~(I)~~(O) "Public capital improvements" means capital improvements or facilities that any governmental agency has authority to acquire, pay the costs of, own, maintain, or operate, or to contract with other persons to have the same done, including, but not limited to, highways, roads, streets, water and sewer facilities, railroad and other transportation facilities, and air and water pollution control and solid waste disposal facilities.

(P) "Targeted innovation industry sectors" means industry sectors involving the production or use of advanced materials, instruments, controls and electronics, power and propulsion, biosciences, and information technology, or such other sectors as may be designated by the director of

development.

~~(J)~~(Q) "Voluntary action" means a voluntary action, as defined in section 3746.01 of the Revised Code, that is conducted under the voluntary action program established in Chapter 3746. of the Revised Code.

~~(K)~~(R) "Project financing obligations" means obligations issued pursuant to section 166.08 of the Revised Code other than obligations for which the bond proceedings provide that bond service charges shall be paid from receipts of the state representing gross profit on the sale of spirituous liquor as referred to in division (B)(4) of section 4310.10 of the Revised Code.

~~(L)~~(S) "Regional economic development entity" means an entity that is under contract with the director of development to administer a loan program under this chapter in a particular area of this state.

Sec. 166.02. (A) The general assembly finds that many local areas throughout the state are experiencing economic stagnation or decline, and that the economic development program provided for ~~by Chapter 166. in sections 166.01 to 166.11~~ of the Revised Code will constitute a deserved, necessary reinvestment by the state in those areas, materially contribute to their economic revitalization, and result in improving the economic welfare of all the people of the state. Accordingly, it is declared to be the public policy of the state, through the operations under ~~Chapter 166. sections 166.01 to 166.11~~ of the Revised Code and other applicable laws adopted pursuant to Section 13 of Article VIII, Ohio Constitution, and other authority vested in the general assembly, to assist in and facilitate the establishment or development of eligible projects or assist and cooperate with any governmental agency in achieving such purpose.

(B) In furtherance of such public policy and to implement such purpose, the director of development may:

(1) After consultation with appropriate governmental agencies, enter into agreements with persons engaged in industry, commerce, distribution, or research and with governmental agencies to induce such persons to acquire, construct, reconstruct, rehabilitate, renovate, enlarge, improve, equip, or furnish, or otherwise develop, eligible projects and make provision therein for project facilities and governmental actions, as authorized by this chapter and other applicable laws, subject to any required actions by the general assembly or the controlling board and subject to applicable local government laws and regulations;

(2) Provide for the guarantees and loans as provided for in sections 166.06 and 166.07 of the Revised Code;

(3) Subject to release of such moneys by the controlling board, contract

for labor and materials needed for, or contract with others, including governmental agencies, to provide, project facilities the allowable costs of which are to be paid for or reimbursed from moneys in the facilities establishment fund, and contract for the operation of such project facilities;

(4) Subject to release thereof by the controlling board, from moneys in the facilities establishment fund acquire or contract to acquire by gift, exchange, or purchase, including the obtaining and exercise of purchase options, property, and convey or otherwise dispose of, or provide for the conveyance or disposition of, property so acquired or contracted to be acquired by sale, exchange, lease, lease purchase, conditional or installment sale, transfer, or other disposition, including the grant of an option to purchase, to any governmental agency or to any other person without necessity for competitive bidding and upon such terms and conditions and manner of consideration pursuant to and as the director determines to be appropriate to satisfy the objectives of ~~Chapter 166.~~ sections 166.01 to 166.11 of the Revised Code;

(5) Retain the services of or employ financial consultants, appraisers, consulting engineers, superintendents, managers, construction and accounting experts, attorneys, and employees, agents, and independent contractors as are necessary in ~~his~~ the director's judgment and fix the compensation for their services;

(6) Receive and accept from any person grants, gifts, and contributions of money, property, labor, and other things of value, to be held, used and applied only for the purpose for which such grants, gifts, and contributions are made;

(7) Enter into appropriate arrangements and agreements with any governmental agency for the taking or provision by that governmental agency of any governmental action;

(8) Do all other acts and enter into contracts and execute all instruments necessary or appropriate to carry out the provisions of Chapter 166. of the Revised Code;

(9) Adopt rules to implement any of the provisions of Chapter 166. of the Revised Code applicable to the director.

(C) The determinations by the director that facilities constitute eligible projects, that facilities are project facilities, that costs of such facilities are allowable costs, and all other determinations relevant thereto or to an action taken or agreement entered into shall be conclusive for purposes of the validity and enforceability of rights of parties arising from actions taken and agreements entered into under this chapter.

(D) Except as otherwise prescribed in Chapter 166. of the Revised

Code, all expenses and obligations incurred by the director in carrying out ~~his or her~~ the director's powers and in exercising ~~his or her~~ the director's duties under Chapter 166. of the Revised Code, shall be payable solely from, as appropriate, moneys in the facilities establishment fund, the loan guarantee fund, the innovation Ohio loan guarantee fund, the innovation Ohio loan fund, or moneys appropriated for such purpose by the general assembly. Chapter 166. of the Revised Code does not authorize the director or the issuing authority under section 166.08 of the Revised Code to incur bonded indebtedness of the state or any political subdivision thereof, or to obligate or pledge moneys raised by taxation for the payment of any bonds or notes issued or guarantees made pursuant to Chapter 166. of the Revised Code.

(E) ~~No~~ Except for financial assistance provided under sections 166.12 to 166.16 of the Revised Code, no financial assistance for project facilities shall be provided under this chapter unless the provisions of the agreement providing for such assistance specify that all wages paid to laborers and mechanics employed on such project facilities for which the assistance is granted shall be paid at the prevailing rates of wages of laborers and mechanics for the class of work called for by such project facilities, which wages shall be determined in accordance with the requirements of Chapter 4115. of the Revised Code for determination of prevailing wage rates, provided that the requirements of this division do not apply where the federal government or any of its agencies provides financing assistance as to all or any part of the funds used in connection with such project facilities and prescribes predetermined minimum wages to be paid to such laborers and mechanics; and provided further that should a nonpublic user beneficiary of the eligible project undertake, as part of the eligible project, construction to be performed by its regular bargaining unit employees who are covered under a collective bargaining agreement which was in existence prior to the date of the document authorizing such assistance then, in that event, the rate of pay provided under the collective bargaining agreement may be paid to such employees.

(F) Any governmental agency may enter into an agreement with the director, any other governmental agency, or a person to be assisted under this chapter, to take or provide for the purposes of this chapter any governmental action it is authorized to take or provide, and to undertake on behalf and at the request of the director any action which the director is authorized to undertake pursuant to divisions (B)(3), (4), and (5) of this section or divisions (B)(3), (4), and (5) of section 166.12 of the Revised Code. Governmental agencies of the state shall cooperate with and provide

assistance to the director of development and the controlling board in the exercise of their respective functions under this chapter.

Sec. 166.03. (A) There is hereby created the facilities establishment fund within the state treasury, consisting of proceeds from the issuance of obligations as specified under section 166.08 of the Revised Code; the moneys received by the state from the sources specified in section 166.09 of the Revised Code; service charges imposed under sections 166.06 and 166.07 of the Revised Code; any grants, gifts, or contributions of moneys received by the director of development to be used for loans made under section 166.07 of the Revised Code or for the payment of the allowable costs of project facilities; and all other moneys appropriated or transferred to the fund. Moneys in the loan guarantee fund in excess of ~~four per cent of the unpaid principal amount of loan repayments guaranteed under section 166.06 of the Revised Code~~ the loan guarantee reserve requirement, but subject to the provisions and requirements of any guarantee contracts, may be transferred to the facilities establishment fund by the treasurer of state upon the order of the director of development. Moneys received by the state under Chapter 122. of the Revised Code, to the extent allocable to the utilization of moneys derived from proceeds of the sale of obligations pursuant to section 166.08 of the Revised Code, shall be credited to the facilities establishment fund.

(B) All moneys appropriated or transferred to the facilities establishment fund may be released at the request of the director of development for payment of allowable costs or the making of loans under ~~this chapter~~ section 166.07 of the Revised Code, for transfer to the loan guarantee fund established in section 166.06 of the Revised Code, or for use for the purpose of or transfer to the funds established by sections 122.35, 122.42, 122.54, 122.55, 122.56, 122.561, 122.57, 122.601, and 122.80 of the Revised Code and, until July 1, 2003, the fund established by section 166.031 of the Revised Code, and, until July 1, 2007, the fund established by section 122.26 of the Revised Code, but only for such of those purposes as are within the authorization of Section 13 of Article VIII, Ohio Constitution, in all cases subject to the approval of the controlling board.

(C) The department of development, in the administration of the facilities establishment fund, is encouraged to utilize and promote the utilization of, to the maximum practicable extent, the other existing programs, business incentives, and tax incentives that department is required or authorized to administer or supervise.

Sec. 166.04. (A) Prior to entering into each agreement to provide assistance under ~~this chapter~~ sections 166.02, 166.06, and 166.07 of the

Revised Code, the director of development shall determine whether the assistance will conform to the requirements of ~~Chapter 166.~~ sections 166.01 to 166.11 of the Revised Code. Such determination, and the facts upon which it is based, shall be set forth by the director in submissions made to the controlling board for purposes of section 166.03 and, unless provision of the assistance has been recommended to the director by a regional economic development entity, to the development financing advisory council under section 166.05 of the Revised Code. An agreement to provide assistance under ~~this chapter~~ sections 166.02, 166.06, and 166.07 of the Revised Code shall set forth such determination, which shall be conclusive for purposes of the validity and enforceability of such agreement and any loan guarantees, loans, or other agreements entered into pursuant to such agreement to provide assistance.

(B) Whenever a person applies for financial assistance under ~~this chapter~~ sections 166.02, 166.06, and 166.07 of the Revised Code and the project for which assistance is requested is to relocate facilities that are currently being operated by the person and that are located in another county, municipal corporation, or township, the director shall provide written notification to the appropriate local governmental bodies and state officials. The notification shall contain the following information:

(1) The name of the person applying for financial assistance ~~under this chapter~~;

(2) The county, and the municipal corporation or township, in which the project for which assistance is requested is located; and

(3) The county, and the municipal corporation or township, in which the facility to be replaced is located.

The director shall provide the written notification to the appropriate local governmental bodies and state officials so that they receive the notification at least five days before the development financing advisory council meeting at which the council considers the request for financial assistance pursuant to section 166.05 of the Revised Code.

(C) As used in division (B) of this section:

(1) "Appropriate local governmental bodies" means:

(a) The boards of county commissioners or legislative authorities of the county in which the project for which assistance is requested is located and of the county in which the facility to be replaced is located;

(b) The legislative authority of the municipal corporation or the board of township trustees of the township in which the project for which assistance is requested is located; and

(c) The legislative authority of the municipal corporation or the board of

township trustees of the township in which the facility to be replaced is located.

(2) "State officials" means:

(a) The state representative and state senator in whose districts the project for which assistance is requested is located;

(b) The state representative and state senator in whose districts the facility to be replaced is located.

Sec. 166.05. (A) In determining the projects to be assisted and the nature, amount, and terms of assistance to be provided for an eligible project under ~~this chapter~~ sections 166.02, 166.06, and 166.07 of the Revised Code:

(1) Except as otherwise provided in division (A)(3) of this section, the director of development shall take into consideration all of the following:

(a) The number of jobs to be created or preserved, directly or indirectly;

(b) Payrolls, and the taxes generated, at both state and local levels, by the eligible project and by the employment created or preserved by the eligible project;

(c) The size, nature, and cost of the eligible project, including the prospect of the project for providing long-term jobs in enterprises consistent with the changing economics of the state and the nation;

(d) The needs, and degree of needs, of the area in which the eligible project is to be located;

(e) The needs of any private sector enterprise to be assisted;

(f) The competitive effect of the assistance on other enterprises providing jobs for people of the state;

(g) The amount and kind of assistance, if any, to be provided to the private sector enterprise by other governmental agencies through tax exemption or abatement, financing assistance with industrial development bonds, and otherwise, with respect to the eligible project;

(h) The impact of the eligible project and its operations on local government services, including school services, and on public facilities;

(i) The effect of the assistance on the loss of or damage to or destruction of prime farmland, or the removal from agricultural production of prime farmland. As used in this section, "prime farmland" means agricultural land that meets the criteria for this classification as defined by the United States soil conservation service.

(j) The length of time the operator of the project has been operating facilities within the state;

~~(k) The reservation of financial assistance made by the general assembly for small business concerns.~~

(2) The benefits to the local area, including taxes, jobs, and reduced

unemployment and reduced welfare costs, among others, may be accorded value in the leasing or sales of project facilities and in loan and guarantee arrangements.

(B) Prior to granting final approval of the assistance to be provided, the director shall determine that the benefits to be derived by the state and local area from the establishment or development, and operation, of the eligible project will exceed the cost of providing such assistance and, except as provided in division (C)(2) of this section, shall submit to the development financing advisory council and to the controlling board a copy of that determination including the basis for the determination.

(C)(1) Except as provided in division (C)(2) of this section, prior to the submission provided for in division (B) of this section to the controlling board, the director shall submit to the development financing advisory council data pertinent to the considerations set forth in division (A) of this section, the terms of the proposed assistance, and such other relevant information as the development financing advisory council may request.

(2) The director is not required to submit any determination, data, terms, or other application materials or information to the development financing advisory council when provision of the assistance has been recommended to the director by a regional economic development entity.

(D) The development financing advisory council, on the basis of such data, shall make recommendations as to the appropriateness of the assistance to be provided. The recommendations may be revised to reflect any changes in the proposed assistance as the director may submit to the council. The recommendations, as amended, of the council as to the appropriateness of the proposed assistance shall be submitted to the controlling board.

(E) Financial statements and other data submitted to the director of development, the development financing advisory council, or the controlling board by any private sector person in connection with financial assistance under ~~this chapter~~ sections 166.02, 166.06, and 166.07 of the Revised Code, or any information taken from such statements or data for any purpose, shall not be open to public inspection. The development financing advisory council in considering confidential information in connection with financial assistance under ~~this chapter~~ sections 166.02, 166.06, and 166.07 of the Revised Code may, only for consideration of the confidential information referred to, and in the manner provided in division (E) of section 121.22 of the Revised Code, close the meeting during such consideration.

Sec. 166.06. (A) Subject to any limitations as to aggregate amounts thereof that may from time to time be prescribed by the general assembly and to other applicable provisions of this chapter, the director of

development may, on behalf of the state, enter into contracts to guarantee the repayment or payment of not more than ninety per cent of the unpaid principal amount of loans made, including bonds, notes, or other certificates issued or given to provide funds, to pay allowable costs of eligible projects. Such guarantees shall be secured solely by and payable solely from the loan guarantee fund created by this section and ~~from the unencumbered and available moneys representing gross profits payable to the state from the sale of spirituous liquor as included in the definition of "pledged receipts" in division (A)(6) of section 166.08 of the Revised Code, in the facilities establishment fund~~ in the manner and to the extent provided in such guarantee contracts consistent with this section. Such guarantees shall not constitute general obligations of the state or of any political subdivision, and moneys raised by taxation shall not be obligated or pledged for the payment of such guarantees.

(B) Before guaranteeing any such repayments or payments the director shall determine that:

(1) The project is an eligible project and is economically sound;

(2) The principal amount to be guaranteed does not exceed ninety per cent of the allowable costs of the eligible project as determined by ~~an independent engineer, architect, or appraiser engaged by the director by separate contract relating separately and solely to the particular eligible project for which the guarantee is to be made and.~~ To assist the director in making this determination, the director may, in the director's discretion, engage an independent engineer, architect, appraiser, or other professional pursuant to a contract to be paid solely from the facilities establishment fund. Such contract shall be, subject to controlling board approval prior to making such an appraisal.

(3) The principal amount to be guaranteed has a satisfactory maturity date or dates, which in no case shall be later than ~~twenty-five~~ twenty years from the effective date of the guarantee;

(4) The rate of interest on the loan to be guaranteed and on any other loan made by the same parties or related persons for the eligible project is not excessive;

(5) The principal obligor, or primary guarantor, is responsible and is reasonably expected to be able to meet the payments under the loan, bonds, notes, or other certificates;

(6) The loan or documents pertaining to the bonds, notes, or other certificates to be guaranteed contains ~~amortization~~ provisions ~~satisfactory to the director requiring periodic payments or sinking fund or similar deposits for payment~~ by the principal obligor, and is in such form and contains such

terms and provisions for the protection of the lenders as are generally consistent with commercial practice, including, where applicable, provisions with respect to property insurance, repairs, alterations, payment of taxes and assessments, delinquency charges, default remedies, acceleration of maturity, prior, additional and secondary liens, and other matters as the director may approve.

~~The determinations of the director shall be conclusive for purposes of the validity of a guarantee evidenced by a contract signed by the director, and such guarantee shall be incontestable as to moneys advanced under loans to which such guarantees are by their terms applicable.~~

(C) The contract of guarantee may make provision for the conditions of, time for and manner of fulfillment of the guarantee commitment, subrogation of the state to the rights of the parties guaranteed and exercise of such parties' rights by the state, giving the state the options of making payment of the principal amount guaranteed in one or more installments and, if deferred, to pay interest thereon from the loan guarantee fund ~~and pledged receipts described in division (A)(6) of section 166.08 of the Revised Code~~ and the facilities establishment fund, any other terms or conditions customary to such guarantees and as the director may approve, and may contain provisions for securing the guarantee in the manner consistent with this section, covenants on behalf of the state for the maintenance of the loan guarantee fund created by this section and of receipts to it permitted by this chapter, including covenants on behalf of the state to issue obligations under section 166.08 of the Revised Code to provide moneys to the loan guarantee fund to fulfill such guarantees and covenants authorized by division (R)(1) of section 166.08 of the Revised Code, and covenants restricting the aggregate amount of guarantees that may be contracted under this section and obligations that may be issued under section 166.08 of the Revised Code, and terms pertinent to either, to better secure the parties guaranteed.

(D) The "loan guarantee fund" of the economic development program is hereby created as a special revenue fund and a trust fund which shall be in the custody of the treasurer of state but shall be separate and apart from and not a part of the state treasury to consist of all grants, gifts, and contributions of moneys or rights to moneys lawfully designated for or deposited in such fund, all moneys and rights to moneys lawfully appropriated and transferred to such fund, including moneys received from the issuance of obligations under section 166.08 of the Revised Code, and moneys deposited to such fund pursuant to division (F) of this section; provided that the loan guarantee fund shall not be comprised, in any part, of moneys raised by

taxation.

(E) The director may fix service charges for making a guarantee. Such charges shall be payable at such times and place and in such amounts and manner as may be prescribed by the director.

(F) The treasurer of state shall serve as agent for the director in the making of deposits and withdrawals and maintenance of records pertaining to the loan guarantee fund. Prior to the director's entry into a contract providing for the making of a guarantee payable from the loan guarantee fund, the treasurer of state shall cause to be transferred from the facilities establishment fund to the loan guarantee fund an amount sufficient to make the aggregate balance therein, taking into account the proposed loan guarantee, equal to the loan guarantee reserve requirement. Thereafter, the treasurer of state shall cause the balance in the loan guarantee fund to be at least equal to the loan guarantee reserve requirement. Funds from the loan guarantee fund shall be disbursed under a guarantee made pursuant to this section to satisfy a guaranteed repayment or payment which is in default. The treasurer of state shall first withdraw and transfer moneys then on deposit in the loan guarantee fund. Whenever these moneys are inadequate to meet the requirements of a guarantee, the treasurer of state shall, without need of appropriation or further action by the director, provide for a withdrawal and transfer to the loan guarantee fund and then to the guaranteed party of moneys in such amount as is necessary to meet the guarantee, ~~from moneys representing gross profits payable to the state from the sale of spirituous liquor as are included in the definition of "pledged receipts" in division (A)(6) of section 166.08 of the Revised Code~~ from unencumbered and available moneys in the facilities establishment fund. Such disbursements shall be made in the manner and at the times provided in such guarantees. Within ninety days following a disbursement of moneys from the loan guarantee fund, the treasurer of state, without need of appropriation or further action by the director, shall provide for a withdrawal and transfer to the loan guarantee fund from unencumbered and available moneys in the facilities establishment fund, including moneys from the repayment of loans made from that fund, of an amount sufficient to cause the balance in the loan guarantee fund to be at least equal to the loan guarantee reserve requirement.

(G) Any guaranteed parties under this section, except to the extent that their rights are restricted by the guarantee documents, may by any suitable form of legal proceedings, protect and enforce any rights under the laws of this state or granted by such guarantee or guarantee documents. Such rights include the right to compel the performance of all duties of the director and

the treasurer of state required by this section or the guarantee or guarantee documents; and in the event of default with respect to the payment of any guarantees, to apply to a court having jurisdiction of the cause to appoint a receiver to receive and administer the moneys pledged to such guarantee with full power to pay, and to provide for payment of, such guarantee, and with such powers, subject to the direction of the court, as are accorded receivers in general equity cases, excluding any power to pledge or apply additional revenues or receipts or other income or moneys of the state or governmental agencies of the state to the payment of such guarantee. Each duty of the director and the treasurer of state and their officers and employees, and of each governmental agency and its officers, members, or employees, required or undertaken pursuant to this section or a guarantee made under authority of this section, is hereby established as a duty of the director and the treasurer of state, and of each such officer, member, or employee having authority to perform such duty, specifically enjoined by the law resulting from ~~and~~ an office, trust, or station within the meaning of section 2731.01 of the Revised Code. The persons who are at the time the director and treasurer of state, or their officers or employees, are not liable in their personal capacities on any guarantees or contracts to make guarantees by the director.

(H) The determinations of the director under divisions (B) and (C) of this section shall be conclusive for purposes of the validity of a guarantee evidenced by a contract signed by the director, and such guarantee shall be incontestable as to moneys advanced under loans to which such guarantees are by their terms applicable.

Sec. 166.07. (A) The director of development, with the approval of the controlling board and subject to the other applicable provisions of this chapter, may lend moneys in the facilities establishment fund to persons for the purpose of paying allowable costs of an eligible project if the director determines that:

- (1) The project is an eligible project and is economically sound;
- (2) The borrower is unable to finance the necessary allowable costs through ordinary financial channels upon comparable terms;
- (3) The amount to be lent from the facilities establishment fund will not exceed seventy-five per cent of the total allowable costs of the eligible project, except that if any part of the ~~entire~~ amount to be lent from the facilities establishment fund is derived from the issuance and sale of project financing obligations the amount to be lent will not exceed ninety per cent of the total allowable costs of the eligible project;
- (4) The eligible project could not be achieved in the local area in which

it is to be located if the portion of the project to be financed by the loan instead were to be financed by a loan guaranteed under section 166.06 of the Revised Code;

(5) The ~~amount~~ repayment of the loan from the facilities establishment fund ~~to be repaid~~ will be adequately secured by a mortgage, lien, assignment, or pledge, at such level of priority as the director may require;

(6) The borrower will hold at least a ten per cent equity interest in the eligible project at the time the loan is made.

(B) The determinations of the director under division (A) of this section shall be conclusive for purposes of the validity of a loan commitment evidenced by a loan agreement signed by the director.

(C) Fees, charges, rates of interest, times of payment of interest and principal, and other terms, conditions, and provisions of and security for loans made from the facilities establishment fund pursuant to this section shall be such as the director determines to be appropriate and in furtherance of the purpose for which the loans are made. The moneys used in making such loans shall be disbursed from the facilities establishment fund upon order of the director. The director shall give special consideration in setting the required job creation ratios and interest rates for loans that are for voluntary actions.

(D) The director may take actions necessary or appropriate to collect or otherwise deal with any loan made under this section.

(E) The director may fix service charges for the making of a loan. Such charges shall be payable at such times and place and in such amounts and manner as may be prescribed by the director.

Sec. 166.08. (A) As used in this chapter:

(1) "Bond proceedings" means the resolution, order, trust agreement, indenture, lease, 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 economic development 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 such officer.

(5) "Obligations" means bonds, notes, or other evidence of obligation including interest coupons pertaining thereto, issued pursuant to this section.

(6) "Pledged receipts" means all receipts of the state representing the gross profit on the sale of spirituous liquor, as referred to in division (B)(4) of section 4301.10 of the Revised Code, after paying all costs and expenses of the division of liquor control and providing an adequate working capital reserve for the division of liquor control as provided in that division, but excluding the sum required by the second paragraph of section 4301.12 of the Revised Code, as in effect on May 2, 1980, to be paid into the state treasury; moneys accruing to the state from the lease, sale, or other disposition, or use, of project facilities, 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; and any gifts, grants, donations, and pledges, and receipts therefrom, available for the payment of bond service 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 economic development bond service fund created by division (S) 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.

(B) Subject to the limitations provided in section 166.11 of the Revised Code, the issuing authority, upon the certification by the director of development to the issuing authority of the amount of moneys or additional moneys needed in the facilities establishment fund ~~or~~, the loan guarantee fund, the innovation Ohio loan fund, or the innovation Ohio loan guarantee fund for the purpose of paying, or making loans for, allowable costs from the facilities establishment fund or allowable innovation costs from the innovation Ohio loan fund, or needed for capitalized interest, for funding reserves, and for paying costs and expenses incurred in connection with the issuance, carrying, securing, paying, redeeming, or retirement of the obligations or any obligations refunded thereby, including payment of costs and expenses relating to letters of credit, lines of credit, insurance, put agreements, standby purchase agreements, indexing, marketing, remarketing and administrative arrangements, interest swap or hedging agreements, and any other credit enhancement, liquidity, remarketing, renewal, or refunding arrangements, all of which are authorized by this section, or providing

oneys for the loan guarantee fund or the innovation Ohio loan guarantee fund, as provided in this chapter or needed for the purposes of funds established in accordance with or pursuant to sections 122.35, 122.42, 122.54, 122.55, 122.56, 122.561, 122.57, and 122.80 of the Revised Code which are within the authorization of Section 13 of Article VIII, Ohio Constitution, shall issue obligations of the state under this section in the required amount; provided that such obligations may be issued ~~to the extent necessary~~ to satisfy the covenants in contracts of guarantee made under section 166.06 or 166.15 of the Revised Code ~~to issue obligations to meet such guarantees~~, notwithstanding limitations otherwise applicable to the issuance of obligations under this section. 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 deposited by the director of development to the facilities establishment fund ~~or, the loan guarantee fund established by section 166.06 of the Revised Code~~, the innovation Ohio loan guarantee fund, or the innovation Ohio loan fund. Bond proceedings for project financing obligations may provide that the proceeds derived from the issuance of such obligations shall be deposited into such fund or funds provided for in the bond proceedings and, to the extent provided for in the bond proceedings, such proceeds shall be deemed to have been deposited into the facilities establishment fund and transferred to such fund or funds. The issuing authority may appoint trustees, paying agents, and transfer agents and may retain the services of financial advisors, accounting experts, and attorneys, and retain or contract for the services of marketing, remarketing, indexing, and administrative agents, other consultants, and independent contractors, including printing services, as are necessary in the issuing authority's judgment to carry out this section. The costs of such services are allowable costs payable from the facilities establishment fund or allowable innovation costs payable from the innovation Ohio loan fund.

(C) The holders or owners of such obligations shall have no right to have moneys raised by taxation obligated or pledged, and moneys raised by taxation shall not be obligated or pledged, for the payment of bond service charges. Such holders or owners shall have no rights to payment of bond service charges from any moneys accruing to the state from the lease, sale, or other disposition, or use, of project facilities, or from payment of the principal of or interest on loans made, or fees charged for guarantees made, or from any money or property received by the director, treasurer of state, or the state under Chapter 122. of the Revised Code, or from any other use of the proceeds of the sale of the obligations, and no such moneys may be used

for the payment of bond service charges, except for accrued interest, capitalized interest, and reserves funded from proceeds received upon the sale of the obligations and except as otherwise expressly provided in the applicable bond proceedings pursuant to written directions by the director. The right of such holders and owners to 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 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 resolution or 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, subject to any applicable limitation under section 166.11 of the Revised Code. 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 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 chapter, 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 obtained or to be obtained for loans under section 122.43 ~~or~~, 166.07, or 166.16 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. If the issuing authority whose signature or a facsimile of whose signature appears on any such obligation or coupon ceases to be the

issuing authority before delivery thereof, such signature or facsimile is nevertheless valid and sufficient for all purposes as if the former issuing authority had remained the issuing authority until such delivery; and if 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.

Obligations issued to provide moneys for the loan guarantee fund or the innovation Ohio loan guarantee fund may, as determined by the issuing authority, be sold at private sale, and without publication of a notice of sale.

(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 resolution or 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 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 holders of obligations or trustees under the bond proceedings, except to the extent that their 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, the director of development, or the division of liquor control required by this chapter or the bond proceedings; to enjoin unlawful activities; and in the event of default with respect to the payment of any bond service charges on any obligations or in the performance of any covenant or agreement on the part of the issuing authority, the director of development, or the division of liquor control 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 issuing authority or the state or governmental agencies of the state 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 governmental agency and its officers, members, or employees, undertaken pursuant to the bond proceedings or any agreement or lease, lease-purchase agreement, or loan made under authority of this chapter, 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 allowable costs including 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; provided that, unless otherwise authorized by the general assembly, any limitations imposed by the general assembly pursuant to this section with respect to bond service charges applicable to the prior obligations shall be applicable to the obligations issued under this division to refund, fund, advance refund or retire such prior obligations.

(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 resolution or 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 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 resolution or 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, and for purposes of any limitation on bond service charges prescribed under division (A) of section 166.11 of the Revised Code, the amount of bond service charges on such bond anticipation notes is deemed to be the bond service charges for the bonds anticipated thereby as set forth in the bond proceedings applicable to such notes, but this provision does not modify any authority in this section to pledge receipts and special funds to, and covenant to issue bonds to fund, the payment of principal of and interest and any premium on such notes.

(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, the state teachers retirement system, the public employees retirement system, the school employees retirement system, and the Ohio police and fire pension fund, notwithstanding any other provisions of the Revised Code or rules adopted pursuant thereto by any governmental 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 banks. 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 common trust funds established in accordance with section 1111.20 of the Revised Code and consisting exclusively of any such securities, notwithstanding division (A)(4) of that section. 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) 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.

(R) The issuing authority may covenant in the bond proceedings, and any such covenants are controlling notwithstanding any other provision of law, that the state and applicable officers and governmental agencies of the state, including the general assembly, so long as any obligations are outstanding, shall:

(1) Maintain statutory authority for and cause to be charged and collected wholesale and retail prices for spirituous liquor sold by the state or

its agents so that the pledged receipts are sufficient in amount to meet bond service charges, and the establishment and maintenance of any reserves and other requirements provided for in the bond proceedings, and, as necessary, to meet covenants contained in contracts of guarantee made under section 166.06 of the Revised Code;

(2) Take or permit no action, by statute or otherwise, that would impair the exemption from federal income taxation of the interest on the obligations.

(S) There is hereby created the economic development bond service fund, which shall be in the custody of the treasurer of state but shall be separate and apart from and not 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 a bond service fund or the economic development 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. During the period beginning with the date of the first issuance of obligations and continuing during such time as any such obligations are outstanding, and so long as moneys in the pertinent bond service funds are insufficient to pay all bond services charges on such obligations becoming due in each year, a sufficient amount of the gross profit on the sale of spirituous liquor included in pledged receipts are committed and shall be paid to the bond service fund or economic development bond service fund in each year for the purpose of paying the bond service charges becoming due in that year without necessity for further act of appropriation for such purpose and notwithstanding anything to the contrary in Chapter 4301. of the Revised Code. The economic development 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.

(T) The obligations, the transfer thereof, and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the state.

Sec. 166.11. (A) The aggregate principal amount of project financing obligations that may be issued under section 166.08 of the Revised Code is three hundred million dollars, plus the principal amount of such project

financing obligations retired by payments. The aggregate principal amount of obligations, exclusive of project financing obligations, that may be issued under section 166.08 of the Revised Code is three hundred million dollars, plus the principal amount of any such obligations retired by payment, the amounts held or obligations pledged for the payment of the principal amount of any such obligations outstanding, amounts in special funds held as reserves to meet bond service charges, and amounts of obligations issued to provide moneys required to meet payments from the loan guarantee fund created in section 166.06 of the Revised Code and the innovation Ohio loan guarantee fund created in section 166.15 of the Revised Code, and minus the amount if any by which four per cent of the unpaid principal amount of loan repayments guaranteed under section 166.06 of the Revised Code exceeds the amount in the loan guarantee fund. The terms of the obligations issued under section 166.08 of the Revised Code, other than obligations issued to meet guarantees that cannot be satisfied from amounts then held in the loan guarantee fund, shall be such that the aggregate amount of moneys used from profit from the sale of spirituous liquor, and not from other sources, in any fiscal year shall not exceed twenty-five million dollars. For purposes of the preceding sentence, "other sources" include the annual investment income on special funds to the extent it will be available for payment of any bond service charges in lieu of use of profit from the sale of spirituous liquor, and shall be estimated on the basis of the expected funding of those special funds and assumed investment earnings thereon at a rate equal to the weighted average yield on investments of those special funds determined as of any date within sixty days immediately preceding the date of issuance of the bonds in respect of which the determination is being made. The determinations required by this division shall be made by the treasurer of state at the time of issuance of an issue of obligations and shall be conclusive for purposes of such issue of obligations from and after their issuance and delivery.

(B) The aggregate amount of the guaranteed portion of the unpaid principal of loans guaranteed under ~~section~~ sections 166.06 and 166.15 of the Revised Code and the unpaid principal of loans made under ~~section~~ sections 166.07 and 166.16 of the Revised Code may not at any time exceed ~~five~~ seven hundred million dollars. Of that seven hundred million dollars, the aggregate amount of the guaranteed portion of the unpaid principal of loans guaranteed under sections 166.06 and 166.15 of the Revised Code shall not at any time exceed two hundred million dollars. However, ~~this limitation does~~ the limitations established under this division do not apply to loans made with proceeds from the issuance and sale of project financing

obligations.

~~(C) At least fifty per cent of the original amounts authorized by division (B) of this section shall be reserved for and applied to assist small business concerns that have not more than four hundred employees, not including new employment to be generated by the eligible project to be assisted under this chapter, but this requirement does not limit the portion of such amounts which may be applied to assist such small business concerns.~~

Sec. 166.12. (A) The general assembly finds that in order to maintain and enhance the competitiveness of the Ohio economy and to improve the economic welfare of all of the people of the state, it is necessary to ensure that high-value jobs based on research, technology, and innovation will be available to the people of this state. Further, the general assembly finds that the attraction of such jobs and their presence in this state will materially contribute to the economic welfare of all of the people of the state. Accordingly, it is declared to be the public policy of this state, through the operations under sections 166.01 and 166.12 to 166.16 of the Revised Code, and the loan and loan guarantee provisions contained in those sections, applicable laws adopted pursuant to Section 13 of Article VIII, Ohio Constitution, and other authority vested in the general assembly, to assist in and facilitate the establishment or development of eligible innovation projects or assist and cooperate with any governmental agency in achieving that purpose.

(B) In furtherance of that public policy and to implement that purpose, the director of development may:

(1) After consultation with appropriate governmental agencies, enter into agreements with persons engaged in industry, commerce, distribution, or research and with governmental agencies to induce such persons to acquire, construct, reconstruct, rehabilitate, renovate, enlarge, improve, equip, or furnish, or otherwise develop, eligible innovation projects and make provision therein for project facilities and governmental actions, as authorized by sections 166.01 and 166.12 to 166.16 of the Revised Code and other applicable laws;

(2) Provide for innovation Ohio loan guarantees and loans under sections 166.15 and 166.16 of the Revised Code;

(3) Subject to the release of such moneys by the controlling board, contract for labor and materials needed for, or contract with others, including governmental agencies, to provide, eligible innovation projects the allowable innovation costs of which are to be paid for or reimbursed from moneys in the innovation Ohio loan fund, and contract for the operation of such eligible innovation projects;

(4) Subject to release thereof by the controlling board, from moneys in the innovation Ohio loan fund, acquire or contract to acquire by gift, exchange, or purchase, including the obtaining and exercise of purchase options, innovation property, and convey or otherwise dispose of, or provide for the conveyance or disposition of, innovation property so acquired or contracted to be acquired by sale, exchange, lease, lease purchase, conditional or installment sale, transfer, or other disposition, including the grant of an option to purchase, to any governmental agency or to any other person without necessity for competitive bidding and upon such terms and conditions and manner of consideration pursuant to, and as the director determines to be appropriate to satisfy the objectives of, Chapter 166. of the Revised Code;

(5) Retain the services of or employ financial consultants, appraisers, consulting engineers, superintendents, managers, construction and accounting experts, attorneys, and employees, agents, and independent contractors as are necessary in the director's judgment and fix the compensation for their services;

(6) Receive and accept from any person grants, gifts, and contributions of money, property, labor, and other things of value, to be held, used, and applied only for the purpose for which such grants, gifts, and contributions are made;

(7) Enter into appropriate arrangements and agreements with any governmental agency for the taking or provision by that governmental agency of any governmental action with respect to innovation projects;

(8) Do all other acts and enter into contracts and execute all instruments necessary or appropriate to carry out the provisions of sections 166.01 and 166.12 to 166.16 of the Revised Code;

(9) With respect to property, including but not limited to innovation property, take such interests, including but not limited to mortgages, security interests, assignments, and exclusive or non-exclusive licenses, as may be necessary or appropriate under the circumstances, to ensure that innovation property is used within this state and that products or services associated with that innovation property are produced or, in the case of services, delivered, by persons employed within this state;

(10) Adopt rules necessary to implement any of the provisions of sections 166.01 and 166.12 to 166.16 of the Revised Code applicable to the director.

ant thereto or to an action taken or agreement entered into, shall be conclusive for purposes of the validity and enforceability of rights of parties arising from actions taken and agreements entered into under sections 166.01 and 166.12 to 166.16 of the Revised Code.

Sec. 166.13. (A) Prior to entering into each agreement to provide innovation financial assistance under sections 166.12, 166.15, and 166.16 of the Revised Code, the director of development shall determine whether the assistance will conform to the requirements of sections 166.12 to 166.16 of the Revised Code. Such determination, and the facts upon which it is based, shall be set forth by the director in submissions made to the controlling board for purposes of section 166.16 of the Revised Code and to the development finance advisory council under section 166.14 of the Revised Code. An agreement to provide assistance under sections 166.12, 166.15, and 166.16 of the Revised Code shall set forth the determination, which shall be conclusive for purposes of the validity and enforceability of the agreement and any innovation loan guarantees, innovation loans, or other agreements entered into pursuant to the agreement to provide innovation financial assistance.

(B) Whenever a person applies for innovation financial assistance under sections 166.12, 166.15, and 166.16 of the Revised Code and the eligible innovation project for which innovation financial assistance is requested is to relocate an eligible innovation project that is currently being operated by the person and that is located in another county, municipal corporation, or township, the director shall provide written notification to the appropriate local governmental bodies and state officials. The notification shall contain the following information:

(1) The name of the person applying for innovation financial assistance;
(2) The county, and the municipal corporation or township, in which the eligible innovation project for which innovation financial assistance is requested is located; and

(3) The county, and the municipal corporation or township, in which the eligible innovation project to be replaced is located.

The director shall provide the written notification to the appropriate local governmental bodies and state officials so that they receive the notification at least five days before the development finance advisory council meeting at which the council considers the request for innovation financial assistance pursuant to sections 166.12, 166.15, and 166.16 of the Revised Code.

(C) As used in division (B) of this section:

(1) "Appropriate local governmental bodies" means:

(a) The boards of county commissioners or legislative authorities of the county in which the project for which innovation financial assistance is requested is located and of the county in which the eligible innovation project to be replaced is located;

(b) The legislative authority of the municipal corporation or the board of township trustees of the township in which the eligible innovation project for which innovation financial assistance is requested is located; and

(c) The legislative authority of the municipal corporation or the board of township trustees of the township in which the eligible innovation project to be replaced is located.

(2) "State officials" means:

(a) The state representative and state senator in whose districts the project for which innovation financial assistance is requested is located;

(b) The state representative and state senator in whose districts the innovation project to be replaced is located.

Sec. 166.14. (A) In determining the eligible innovation projects to be assisted and the nature, amount, and terms of innovation financial assistance to be provided for an eligible innovation project under sections 166.12 to 166.16 of the Revised Code:

(1) The director of development shall take into consideration all of the following:

(a) The number of jobs to be created or preserved by the eligible innovation project, directly or indirectly;

(b) Payrolls, and the taxes generated, at both state and local levels, by or in connection with the eligible innovation project and by the employment created or preserved by or in connection with the eligible innovation project;

(c) The size, nature, and cost of the eligible innovation project, including the prospect of the eligible innovation project for providing long-term jobs in enterprises consistent with the changing economics of the state and the nation;

(d) The needs of any private sector enterprise to be assisted;

(e) The amount and kind of assistance, if any, to be provided to the private sector enterprise by other governmental agencies through tax exemption or abatement, financing assistance with industrial development bonds, and otherwise, with respect to the eligible innovation project or with respect to any providers of innovation property to be included as part of the eligible innovation project;

(f) The likelihood of the successful implementation of the proposed eligible innovation project;

(g) Whether the eligible innovation project involves the use of

technology in a targeted innovation industry sector.

(2) The benefits to the local area, including taxes, jobs, and reduced unemployment and reduced welfare costs, among others, may be accorded value in the leasing or sales of innovation project facilities and in loan and guarantee arrangements.

(3) In making determinations under division (A)(1) of this section, the director may consider the effect of an eligible innovation project upon any entity engaged to provide innovation property to be acquired, leased, or licensed in connection with such assistance.

(B) The director shall submit to the development finance advisory council data pertinent to the considerations set forth in division (A) of this section, the terms of the proposed innovation financial assistance, and such other relevant information as the council may request.

(C) The development finance advisory council, on the basis of such data, shall make recommendations as to the appropriateness of the innovation financial assistance to be provided. The recommendations may be revised to reflect any changes in the proposed innovation financial assistance as the director may submit to the council. The recommendations, as amended, of the council as to the appropriateness of the proposed innovation financial assistance shall be submitted to the controlling board.

(D) Financial statements and other data submitted to the director of development, the development finance advisory council, or the controlling board by any private sector person in connection with innovation financial assistance under sections 166.12, 166.15, and 166.16 of the Revised Code, or any information taken from such statements or data for any purpose, shall not be open to public inspection. The development finance advisory council in considering confidential information in connection with innovation financial assistance under this chapter may, only for consideration of the confidential information referred to, and in the manner provided in division (E) of section 121.22 of the Revised Code, close the meeting during such consideration.

novation Ohio loan fund, in the manner and to the extent provided in guarantee contracts consistent with this section. The guarantees shall not constitute general obligations of the state or of any political subdivision, and moneys raised by taxation shall not be obligated or pledged for the payment of the guarantees.

(B) Before guaranteeing any such repayments or payments, the director shall determine that:

(1) The project is an eligible innovation project and is economically sound.

(2) The principal amount to be guaranteed does not exceed ninety per cent of the allowable innovation costs of the eligible innovation project as determined by the director. In making this determination, the director may, in the director's discretion, engage an independent engineer, architect, appraiser, or other professional to make it, pursuant to a contract to be paid solely from the innovation Ohio loan fund, subject to approval of the controlling board.

(3) The principal amount to be guaranteed has a satisfactory maturity date or dates, which in no case shall be later than twenty years from the effective date of the guarantee.

(4) The principal obligor, or primary guarantor, is responsible and is reasonably expected to be able to meet the payments under the loan, bonds, notes, or other certificates.

(5) The loan or documents pertaining to the bonds, notes, or other certificates to be guaranteed contains provisions for payment by the principal obligor satisfactory to the director and is in such form and contains such terms and provisions for the protection of the lenders as are generally consistent with commercial practice for the type of eligible innovation project that is the subject of the assistance, including, where applicable, provisions with respect to property insurance, repairs, alterations, payment of taxes and assessments, delinquency charges, default remedies, acceleration of maturity, prior, additional, and secondary liens, and other matters as the director may approve.

(C) The contract of guarantee may make provision for the conditions of, time for, and manner of fulfillment of the guarantee commitment, subrogation of this state to the rights of the parties guaranteed and exercise of such parties' rights by this state, giving this state the options of making payment of the principal amount guaranteed in one or more installments and, if deferred, to pay interest thereon from the innovation Ohio loan guarantee fund, and any other terms or conditions customary to such guarantees and as the director may approve, and may contain provisions for

securing the guarantee in the manner consistent with this section, covenants on behalf of this state for the maintenance of the loan guarantee fund created by this section and of receipts to it permitted by this chapter, including covenants on behalf of this state to issue obligations under section 166.08 of the Revised Code to provide moneys to the innovation Ohio loan guarantee fund to fulfill such guarantees, and covenants restricting the aggregate amount of guarantees that may be contracted under this section and obligations that may be issued under section 166.08 of the Revised Code, and terms pertinent to either, to better secure the parties guaranteed.

(D) The innovation Ohio loan guarantee fund is hereby created as a special revenue fund and a trust fund which shall be in the custody of the treasurer of state but shall be separate and apart from and not a part of the state treasury and shall consist of all grants, gifts, and contributions of moneys or rights to moneys lawfully designated for or deposited in such fund, all moneys and rights to moneys lawfully appropriated and transferred to such fund, including moneys received from the issuance of obligations under section 166.08 of the Revised Code, and moneys deposited to such fund pursuant to division (F) of this section. The innovation Ohio loan guarantee fund shall not be comprised, in any part, of moneys raised by taxation.

(E) The director may fix service charges for making a guarantee. The charges shall be payable at such times and place and in such amounts and manner as may be prescribed by the director.

(F) The treasurer of state shall serve as agent for the director in the making of deposits and withdrawals and maintenance of records pertaining to the innovation Ohio loan guarantee fund. Prior to the director's entry into a contract providing for the making of a guarantee payable from the innovation Ohio loan guarantee fund, the treasurer of state shall cause to be transferred from the innovation Ohio loan fund to the innovation Ohio loan guarantee fund an amount sufficient to make the aggregate balance therein, taking into account the proposed loan guarantee equal to the innovation Ohio loan guarantee reserve requirement. Thereafter, the treasurer of state shall cause the balance in the innovation Ohio loan guarantee fund to be at least equal to the innovation Ohio loan guarantee reserve requirement. Funds from the innovation Ohio loan guarantee fund shall be disbursed under a guarantee made pursuant to this section to satisfy a guaranteed repayment or payment which is in default. After withdrawing moneys from the innovation Ohio loan guarantee fund, the treasurer of state shall transfer moneys in the innovation Ohio loan fund to the innovation Ohio loan guarantee fund to satisfy any repayment obligations. Whenever these

moneys are inadequate to meet the requirements of a guarantee, the treasurer of state shall, without need of appropriation or further action by the director, provide for a withdrawal and transfer to the innovation Ohio loan guarantee fund and then to the guaranteed party of moneys in such amount as is necessary to meet the guarantee, from unencumbered and available moneys in the innovation Ohio loan fund. The disbursements shall be made in the manner and at the times provided in the guarantees. Within ninety days following a disbursement of money from the innovation Ohio loan guarantee fund, the treasurer of state, without need of appropriation or further action by the director, shall provide for a withdrawal and transfer to the innovation Ohio loan guarantee fund from unencumbered and available moneys in the innovation Ohio loan fund, including moneys from the repayment of loans made from that fund, of an amount sufficient to cause the balance in the innovation Ohio loan guarantee fund to be at least equal to the innovation Ohio loan guarantee reserve requirement.

(G) Any guaranteed parties under this section, except to the extent that their rights are restricted by the guarantee documents, may by any suitable form of legal proceedings, protect and enforce any rights under the laws of this state or granted by such guarantee or guarantee documents. Such rights include the right to compel the performance of all duties of the director and the treasurer of state required by this section or the guarantee or guarantee documents; and in the event of default with respect to the payment of any guarantees, to apply to a court having jurisdiction of the cause to appoint a receiver to receive and administer the moneys pledged to such guarantee with full power to pay, and to provide for payment of, such guarantee, and with such powers, subject to the direction of the court, as are accorded receivers in general equity cases, excluding any power to pledge or apply additional revenues or receipts or other income or moneys of this state or governmental agencies of the state to the payment of such guarantee. Each duty of the director and the treasurer of state and their officers and employees, and of each governmental agency and its officers, members, or employees, required or undertaken pursuant to this section or a guarantee made under authority of this section, is hereby established as a duty of the director and the treasurer of state, 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 persons who are at the time the director and treasurer of state, or their officers or employees, are not liable in their personal capacities on any guarantees or contracts to make guarantees by the director.

(H) The determinations of the director under divisions (B) and (C) of this section shall be conclusive for purposes of the validity of a guarantee evidenced by a contract signed by the director, and such guarantee shall be incontestable as to money advanced under loans to which such guarantees are by their terms applicable.

Sec. 166.16. (A) The director of development, with the approval of the controlling board and subject to the other applicable provisions of this chapter, may lend moneys in the innovation Ohio loan fund to persons for the purpose of paying allowable innovation costs of an eligible innovation project if the director determines that:

(1) The project is an eligible innovation project and is economically sound.

(2) The borrower is unable to finance the necessary allowable costs through ordinary financial channels upon comparable terms.

(3) The amount to be lent from the innovation Ohio loan fund will not exceed ninety per cent of the total costs of the eligible innovation project.

(4) The repayment of the loan from the innovation Ohio loan fund will be secured by a mortgage, lien, assignment, or pledge, or other interest in property or innovation property at such level of priority and value as the director may determine necessary, provided that, in making such a determination, the director may take into account the value of any rights granted by the borrower to the director to control the use of any property or innovation property of the borrower under the circumstances described in the loan documents.

(B) The determinations of the director under division (A) of this section shall be conclusive for purposes of the validity of a loan commitment evidenced by a loan agreement signed by the director.

(C) Fees, charges, rates of interest, times of payment of interest and principal, and other terms, conditions, and provisions of and security for loans made from the innovation Ohio loan fund shall be such as the director determines to be appropriate and in furtherance of the purpose for which the loans are made. The moneys used in making the loans shall be disbursed from the innovation Ohio loan fund upon order of the director. Unless otherwise specified in any indenture or other instrument securing obligations under division (D) of section 166.08 of the Revised Code, any payments of principal and interest from loans made from the innovation Ohio loan fund shall be paid to the innovation Ohio loan fund and used for the purpose of making loans.

(D) The innovation Ohio loan fund is hereby created as a special revenue fund and a trust fund which shall be in the custody of the treasurer

of state but shall be separate and apart from and not a part of the state treasury. The fund shall consist of all grants, gifts, and contributions of moneys or rights to moneys lawfully designated for or deposited in such fund, all moneys and rights to moneys lawfully appropriated and transferred to such fund, including moneys received from the issuance of obligations under section 166.08 of the Revised Code, and moneys deposited to such fund pursuant to divisions (C) and (G) of this section. The innovation Ohio loan fund shall not be comprised, in any part, of moneys raised by taxation.

(E) The director may take actions necessary or appropriate to collect or otherwise deal with any loan made under this section.

(F) The director may fix service charges for the making of a loan. The charges shall be payable at such times and place and in such amounts and manner as may be prescribed by the director.

(G) The treasurer of state shall serve as an agent for the director in the making of deposits and withdrawals and maintenance of records pertaining to the innovation Ohio loan fund.

(H)(1) There shall be credited to the innovation Ohio loan fund the moneys received by this state from the repayment of innovation Ohio loans and recovery on loan guarantees, including interest thereon, made from the innovation Ohio loan fund or from the innovation Ohio loan guarantee fund and from the sale, lease, or other disposition of property acquired or constructed from moneys in the innovation Ohio loan fund with moneys derived from the proceeds of the sale of obligations under section 166.08 of the Revised Code. Such moneys shall be applied as provided in this chapter pursuant to appropriations made by the general assembly.

(2) Notwithstanding division (H)(1) of this section, any amounts recovered on innovation Ohio loan guarantees shall be deposited to the credit of the innovation Ohio loan guarantee fund to the extent necessary to restore that fund to the innovation Ohio loan guarantee reserve requirement or any level in excess thereof required by any guarantee contract. Money in the innovation Ohio loan guarantee fund in excess of the innovation Ohio loan guarantee reserve requirement, but subject to the provisions and requirements of any guarantee contracts, may be transferred to the innovation Ohio loan fund by the treasurer of state upon the order of the director of development.

(3) In addition to the requirements of division (H)(1) of this section, moneys referred to in that division may be deposited to the credit of separate accounts within the innovation Ohio loan fund or in the bond service fund and pledged to the security of obligations, applied to the payment of bond service charges without need for appropriation, released from any such

pledge and transferred to the innovation Ohio loan fund, all as and to the extent provided in the bond proceedings pursuant to written directions by the director of development. Accounts may be established by the director in the innovation Ohio loan fund for particular projects or otherwise. Income from the investment of moneys in the innovation Ohio loan fund shall be credited to that fund and, as may be provided in bond proceedings, to particular accounts in that fund. The treasurer of state may withdraw from the innovation Ohio loan fund or, subject to provisions of the applicable bond proceedings, from any special funds established pursuant to the bond proceedings, or from any accounts in such funds, any amounts of investment income required to be rebated and paid to the federal government in order to maintain the exemption from federal income taxation of interest on obligations issued under this chapter, which withdrawal and payment may be made without necessity for appropriation.

Sec. 183.021. (A) No money from the tobacco master settlement agreement fund shall be expended to do any of the following:

(1) Hire an executive agency lobbyist, as defined under section 121.60 of the Revised Code, or a legislative agent, as defined under section 101.70 of the Revised Code;

(2) Support or oppose candidates, ballot questions, referendums, or ballot initiatives.

(B) Nothing in this section prohibits any of the following from advocating on behalf of the specific objectives of a program funded under this chapter:

(1) The members of the board of trustees, executive director, or employees of the tobacco use prevention and control foundation;

(2) The members of the board of trustees, executive director, or employees of the southern Ohio agricultural and community development foundation;

(3) ~~The members, executive director, or employees of the biomedical research and technology transfer commission~~ third frontier commission or the members of the third frontier advisory board.

Sec. 183.19. The biomedical research and technology transfer trust fund is hereby created in the state treasury. Money credited to the fund shall be used as provided in sections ~~183.20 to 183.25~~ 184.01 to 184.03 of the Revised Code. The third frontier commission shall administer the fund in accordance with those sections. All investment earnings of the fund shall be credited to the fund.

Sec. 183.30. (A) Except as provided in division (D) of this section, no more than five per cent of the total expenditures of the tobacco use

prevention and control foundation in a fiscal year shall be for administrative expenses of the foundation.

(B) Except as provided in division (D) of this section, no more than five per cent of the total expenditures of the southern Ohio agricultural and community development foundation in a fiscal year shall be for administrative expenses of the foundation.

(C) Except as provided in division (D) of this section, no more than five per cent of the total expenditures ~~of made from the biomedical research and technology transfer commission~~ biomedical research and technology transfer trust fund by the third frontier commission in a fiscal year shall be for administrative expenses of the commission.

(D) This section's five per cent limitation on administrative expenses does not apply to any fiscal year for which the controlling board approves a spending plan that the foundation or commission submits to the board.

Sec. 184.01. (A) There is hereby created the third frontier commission in the department of development. The purpose of the commission is to coordinate and administer science and technology programs to promote the welfare of the people of the state and to maximize the economic growth of the state through expansion of both of the following:

(1) The state's high technology research and development capabilities;

(2) The state's product and process innovation and commercialization.

(B) The commission shall consist of the director of development, the chancellor of the Ohio board of regents, and the governor's science and technology advisor. The governor shall select a chairperson from among the members, who shall serve in that role at the pleasure of the governor. Sections 101.82 to 101.87 of the Revised Code do not apply to the commission.

(C) The commission shall meet at least once during each quarter of the calendar year or at the call of the chairperson. A majority of all members of the commission constitutes a quorum, and no action shall be taken without the concurrence of a majority of the members.

(D) The commission shall administer any money that may be appropriated to it by the general assembly. The commission may use such money for research and commercialization and for any other purposes that may be designated by the commission.

(E) The department of development shall provide office space and facilities for the commission. Administrative costs associated with the operation of the commission or with any program or activity administered by the commission shall be paid from amounts appropriated to the commission or to the department of development for such purposes.

(F) The attorney general shall serve as the legal representative for the commission and may appoint other counsel as necessary for that purpose in accordance with section 109.07 of the Revised Code.

(G) Members of the commission shall serve without compensation, but shall receive their reasonable and necessary expenses incurred in the conduct of commission business.

Sec. 184.02. (A) The third frontier commission may perform any act to ensure the performance of any function necessary or appropriate to carry out the purposes of, and exercise the powers granted under, sections 184.01 and 184.02 of the Revised Code. In addition, the commission may do any of the following:

(1) Adopt, amend, and rescind rules under section 111.15 of the Revised Code for the administration of any aspect of its operations;

(2) Adopt bylaws governing its operations, including bylaws that establish procedures and set policies as may be necessary to assist with the furtherance of its purposes;

(3) Appoint and set the compensation of employees needed to carry out its duties;

(4) Contract with, retain the services of, or designate, and fix the compensation of, such financial consultants, accountants, other consultants and advisors, and other independent contractors as may be necessary or desirable to carry out its duties;

(5) Solicit input and comments from the third frontier advisory board, and specialized industry, professional, and other relevant interest groups concerning its purposes;

(6) Facilitate alignment of the state's science and technology programs and activities;

(7) Make grants and loans to individuals, public agencies, private companies or organizations, or joint ventures for any of the broad range of activities related to its purposes.

(B) The commission shall do all of the following:

(1) Establish a competitive process for the award of grants and loans that is designed to fund the most meritorious proposals and, when appropriate, provide for peer review of proposals;

(2) Within ninety days after the end of each fiscal year, submit to the governor and the general assembly a report of the activities of the commission during the preceding fiscal year;

(3) With specific application to the biomedical research and technology transfer trust fund, periodically make strategic assessments of the types of state investments in biomedical research and biotechnology in the state that

would likely create jobs and business opportunities in the state and produce the most beneficial long-term improvements to the public health of Ohioians, including, but not limited to, biomedical research and biotechnology initiatives that address tobacco-related illnesses as may be outlined in any master agreement. The commission shall award grants and loans from the fund pursuant to a process established under division (B)(1) of this section.

Sec. 184.03. (A) There is hereby created the third frontier advisory board that, upon request of the third frontier commission, shall provide general advice to the commission on various items including, but not limited to, the following:

(1) Strategic planning for programs administered by the commission;

(2) Budget and funding priorities, funding processes, request-for-proposal criteria, and other aspects of the management and coordination of programs administered by the commission;

(3) Metrics and methods of measuring the progress and impact of programs administered by the commission;

(4) Studies to be conducted to collect and analyze data relevant to advancing the goals of programs administered by the commission.

(B) The board shall consist of sixteen members selected for their knowledge of and experience in science and technology matters that may affect the state in the near future. Of the sixteen members, fourteen shall be appointed by the governor, one shall be appointed by the speaker of the house of representatives, and one shall be appointed by the president of the senate.

(1) Of the fourteen members appointed by the governor, nine shall be representative of or have experience with business matters that affect the state and five shall be representative of or have experience with matters affecting universities or nonprofit research institutions in the state.

(2) Of the governor's initial appointees that are representative of or have experience with business matters that affect the state, three shall serve an initial term of one year, three shall serve an initial term of two years, and three shall serve an initial term of three years. All of the initial appointees that are representative of or have experience with matters affecting university or nonprofit research institutions shall serve an initial term of three years. Thereafter, each member appointed by the governor shall serve a three-year term.

(3) All appointees to the board shall serve at the pleasure of their appointing authorities.

(4) Not more than nine members of the board shall be of the same

political party.

(C) The governor shall appoint the chairperson of the board from among its members, and the chairperson shall serve in that role at the pleasure of the governor.

(D) A majority of the members of the board constitutes a quorum, and no action shall be taken without the affirmative vote of a majority of the members.

(E) Each member of the board shall hold office from the date of appointment until the end of the term for which the member was appointed. A member may be reappointed for an unlimited number of terms. A 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 such term. A vacancy in an unexpired term shall be filled in the same manner as the original appointment. A member of the board 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 governor may remove any member of the board for malfeasance, misfeasance, or nonfeasance after a hearing in accordance with Chapter 119. of the Revised Code.

(F) Members of the board shall not act as representatives of any specific disciplinary, regional, or organizational interest. Members shall represent a wide variety of experience valuable in technology research and development, product process innovation and commercialization, and creating and managing high-growth technology-based companies.

(G) Members of the board shall file financial disclosure statements described in division (B) of section 102.02 of the Revised Code.

(H) Members of the board shall serve without compensation but shall receive their reasonable and necessary expenses incurred in the conduct of board business.

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

(J) The department of development shall provide office space and facilities for the board.

(K) Sections 101.82 to 101.87 of the Revised Code do not apply to the board.

~~Sec. 307.23. The board of county commissioners of any county having a population of less than twenty five thousand, according to the most recently completed United States decennial census, may appropriate, out of the revenue fund not otherwise appropriated, a sum not exceeding twenty~~

~~housand dollars annually; in counties having a population of more than twenty five thousand and not more than one hundred thousand, according to such census, the board may appropriate a sum not exceeding thirty two thousand dollars annually; in counties having a population of more than one hundred thousand and not more than three hundred thousand, according to such census, the board may appropriate a sum not exceeding sixty thousand dollars annually; in counties having a population of more than three hundred thousand, according to such census, the board may appropriate a sum not exceeding one hundred thousand dollars annually, money to be paid to the historical society of such counties respectively, to the county or to local societies for the preservation and restoration of historic and archaeological sites located in the county. The money may be used for the promotion of historical work within the borders of the county, and for the restoration or reconstruction of historic buildings, for the collection, preservation, and publication of historical material, and to disseminate historical information of the county, and in general to defray the expense of carrying on historical work in such the county.~~

~~Such~~ Other than for the restoration or reconstruction of historic buildings, funds appropriated under this section may not be used for the construction of buildings. No board may appropriate any funds for the benefit of any county historical society or preservation and restoration society unless such society is incorporated not for profit under the laws of this state. Application for the funds shall be made in the form of a certified copy of a resolution adopted by the applicant society.

Sec. 307.675. (A) As used in this section, "long life expectancy material" means any material, including a composite, that, when used for a bridge deck in lieu of steel, concrete, or reinforced concrete, will result in an expected useful life of the bridge deck before replacement of at least thirty years.

(B) A county engineer may make a recommendation to the board of county commissioners for the issuance of indebtedness of the county as provided under division (C) of this section if the county engineer determines that the projected savings from the use of long life expectancy material in the construction or repair of the bridge deck of a bridge for which the county has construction or maintenance responsibility are sufficient to pay any additional debt service costs of that indebtedness. In making this determination, the county engineer shall do all of the following:

(1) Determine the expected useful life of the bridge deck if constructed or repaired using long life expectancy material. In making the determination, the county engineer shall use credible data and shall

thoroughly review any data used that is not generated by the engineer.

(2) Determine the additional debt service costs the county would incur issuing indebtedness under division (C) of this section compared to issuing indebtedness to construct or repair the bridge deck using steel, concrete, or reinforced steel;

(3) Compare the additional debt service costs to the projected savings in operating, repair, and future capital improvement costs of the bridge deck over the lesser of fifty years or its expected useful life.

The county engineer also may include in a recommendation under division (B) of this section a recommendation to purchase and install performance monitoring equipment to monitor the physical condition of the bridge so constructed or repaired.

(C) Upon a recommendation of the county engineer pursuant to division (B) of this section, and pursuant to division (C)(7) of section 133.07 of the Revised Code, a board of county commissioners may issue indebtedness of the county subject to, and having a maximum maturity specified in, division (B)(1)(c) of section 133.20 of the Revised Code, for the purpose of constructing or repairing with long life expectancy material the bridge deck of a bridge for which the county has construction or maintenance responsibility and, if also so recommended, for the purpose of purchasing, installing, and maintaining in conjunction with the bridge improvement performance monitoring equipment to monitor the physical condition of the bridge. The authority conferred by this division is in addition to any other statutory authority of a board to issue indebtedness for a bridge improvement, including an improvement using long life expectancy material.

Sec. 715.02. (A) Two or more municipal corporations, one or more municipal corporations and one or more other political subdivisions, or two or more political subdivisions other than municipal corporations may enter into an agreement for the joint construction or management, or construction and management, of any public work, utility, or improvement, benefiting each ~~such~~ municipal corporation or other political subdivision or for the joint exercise of any power conferred on municipal corporations or other political subdivisions by the constitution or laws of this state, in which each of ~~such~~ the municipal corporations or other political subdivisions is interested. Any such agreement shall be approved by ordinance or resolution, as applicable, passed by the legislative body of each municipal corporation or other political subdivision that is a party thereto, which to the agreement. The ordinance or resolution shall set forth the agreement in full; and, when approved, shall be a binding contract ~~between such municipal~~

corporations.

~~(A)~~(B) Any agreement, entered into as provided in this section, shall provide for the following:

(1) The method by which the work, utility, or improvement specified ~~therein~~ in it shall be jointly constructed or managed;

(2) The method by which any specified power shall be jointly exercised;

(3) Apportioning among the contracting municipal corporations or other political subdivisions any expense of jointly constructing, maintaining, or managing any work, utility, or improvement or jointly exercising any power.

~~(B)~~(C) Any agreement, entered into as provided in this section, may provide for either of the following:

(1) Assessing the cost, or any specified part of the cost, of the joint construction, maintenance, or management of any public work, utility, or improvement upon abutting property specially benefited thereby;

(2) Assessing the cost, or any specified part of the cost, of constructing, maintaining, or managing any such public work, utility, or improvement upon the property within any district clearly specified in ~~such~~ the agreement, in proportion to benefits derived by ~~such~~ that property from ~~such~~ the work, utility, or improvement.

(D) Each municipal corporation or other political subdivision may issue bonds for its portion of the cost of any such public work, utility, or improvement, if Chapter 133. of the Revised Code would authorize the issuance of ~~such those bonds in the event such~~ if the municipal corporation or other political subdivision alone were undertaking the construction of ~~such public~~ the work, utility, or improvement, and subject to the same conditions and restrictions which would then apply.

Sec. 718.151. A municipal corporation, by ordinance, may grant a nonrefundable credit against its tax on income to a taxpayer that also receives a tax credit under section 122.171 of the Revised Code. If a credit is granted under this section, it shall be measured as a percentage of the income tax revenue the municipal corporation derives from the retained employees of the taxpayer, and shall be for a term not exceeding ten years. Before a municipal corporation passes an ordinance allowing such a credit, the municipal corporation and the taxpayer shall enter into an agreement specifying all the conditions of the credit.

Sec. 1561.351. A deputy mine inspector who makes a finding concerning a violation of this chapter or Chapter 1563., 1565., or 1567. or section 1509.09, 1509.12, 1509.13, 1509.14, 1509.15, 1509.17, or 1509.18 of the Revised Code that involves mining safety shall notify the ~~chief of the division of mineral resources management~~ owner, operator, lessee, agent,

and representative of the miners of the mine involved of the finding. The owner, operator, lessee, or agent of the mine involved may request a review of the inspector's finding by the chief of the division of mineral resources management. Upon receipt of such a request, the chief shall review the inspector's finding, make a written determination regarding it, and provide a copy of the written determination to the owner, operator, lessee, or agent of the mine involved. The chief shall provide a copy of the written determination to any other interested party upon request.

A person, such as an owner, operator, lessee, or agent of the mine or the authorized representative of the ~~workers~~ miners of the mine, who has an interest that is or may be adversely affected by the chief's determination may appeal the determination, not later than ten days after receiving notice of the determination, to the reclamation commission by filing a copy of the chief's written determination with the commission, notwithstanding division (A)(1) of section 1513.13 of the Revised Code, which provides for appeals within thirty days. The commission shall hear the appeal in accordance with section 1513.13 of the Revised Code.

Sec. 1565.04. The operator of each mine who is an employer as defined in section 4123.01 of the Revised Code, or any mine with three or more workers, shall employ a certified mine foreperson. In gaseous underground mines, only a holder of a mine foreperson of gaseous mines certificate that contains a notation by the chief of the division of mineral resources management showing the holder to be at least twenty-three years of age and have at least five years' actual practical experience in gaseous mines shall be employed as the mine foreperson. In other underground mines, the mine foreperson shall be a holder of a mine foreperson of nongaseous mines certificate that contains a notation by the chief showing the holder to be at least twenty-one years of age and have at least three years' actual practical experience in mines. All such underground mines shall have at least one certified foreperson on duty at all times when workers are employed in the loading or mining of coal underground. Each active working area of a surface coal mine and each active surface installation of an underground coal mine shall be examined for hazardous conditions, at least once during each working shift or more often if necessary for safety, by a certified mine foreperson who is designated by the operator to conduct such examinations. Any hazardous conditions noted during the examinations shall be reported to the operator and shall be corrected by the operator. A certified mine foreperson may conduct the examination that is required during each shift at multiple mine sites, provided that the sites are within a ten-mile radius.

No operator of a mine shall refuse or neglect to comply with this

section.

Sec. 1565.15. (A) As used in this section:

(1) "EMT-basic," "EMT-I," "paramedic," and "emergency medical service organization" have the same meanings as in section 4765.01 of the Revised Code.

(2) "First aid provider" includes an EMT-basic, an EMT-I, a paramedic, or a ~~supervisory~~ an employee at a surface coal mine who has satisfied the training requirements established in division (D)(1) of this section.

(B) The operator of an underground coal mine where twenty or more persons are employed on a shift, including all persons working at different locations at the mine within a ten-mile radius, shall provide at least one EMT-basic or EMT-I on duty at the underground coal mine whenever employees at the mine are actively engaged in the extraction, production, or preparation of coal. The operator shall provide EMTs-basic or EMTs-I on duty at the underground coal mine at times and in numbers sufficient to ensure that no miner works in a mine location that cannot be reached within a reasonable time by an EMT-basic or an EMT-I. EMTs-basic and EMTs-I shall be employed on their regular coal mining duties at locations convenient for quick response to emergencies in order to provide emergency medical services inside the underground coal mine and transportation of injured or sick employees to the entrance of the mine. The operator shall provide for the services of at least one emergency medical service organization to be available on call to reach the entrance of the underground coal mine within thirty minutes at any time that employees are engaged in the extraction, production, or preparation of coal in order to provide emergency medical services and transportation to a hospital.

The operator shall make available to EMTs-basic and EMTs-I all of the equipment for first aid and emergency medical services that is necessary for those personnel to function and to comply with the regulations pertaining to first aid and emergency medical services that are adopted under the "Federal Mine Safety and Health Act of 1977," 91 Stat. 1290, 30 U.S.C.A. 801, and amendments to it. The operator of the underground coal mine shall install telephone service or equivalent facilities that enable two-way voice communication between the EMTs-basic or EMTs-I in the mine and the emergency medical service organization outside the mine that provides emergency medical services on a regular basis.

(C) The operator of a surface coal mine shall provide at least one first aid provider on duty at the mine whenever employees at the mine are actively engaged in the extraction, production, or preparation of coal. The operator shall provide first aid providers on duty at the surface coal mine at

times and in numbers sufficient to ensure that no miner works in a mine location that cannot be reached within a reasonable time by a first aid provider. First aid providers shall be employed on their regular coal mining duties at locations convenient for quick response to emergencies in order to provide emergency medical services and transportation of injured or sick employees to the entrance of the surface coal mine. The operator shall provide for the services of at least one emergency medical service organization to be available on call to reach the entrance of the surface coal mine within thirty minutes at any time that employees are engaged in the extraction, production, or preparation of coal in order to provide emergency medical services and transportation to a hospital.

The operator shall ~~make available to first aid providers~~ provide at the mine site all of the equipment for first aid and emergency medical services that is necessary for those personnel to function and to comply with the regulations pertaining to first aid and emergency medical services that are adopted under the "Federal Mine Safety and Health Act of 1977," 91 Stat. 1290, 30 U.S.C.A. 801, and amendments to it, ~~including, without limitation, a portable oxygen cylinder with a medical regulator and oxygen delivery system.~~

(D)(1) ~~A supervisory~~ An employee at a surface coal mine shall be considered to be a first aid provider for the purposes of this section if the employee has received from an instructor approved by the chief of the division of mineral resources management ten hours of initial first aid training as a selected supervisory employee under 30 C.F.R. 77.1703 and receives five hours of refresher first aid training as a selected supervisory employee under 30 C.F.R. 77.1705 in each subsequent calendar year.

(2) Each miner employed at a surface coal mine who is not a first aid provider shall receive from an instructor approved by the chief three hours of initial first aid training and two hours of refresher first aid training in each subsequent calendar year.

(3) The training received in accordance with division (D) of this section shall consist of a course of instruction established in the manual issued by the mine safety and health administration in the United States department of labor entitled "first aid, a bureau of mines instruction manual" or its successor or any other curriculum approved by the chief. The training shall be included in the hours of instruction provided to miners in accordance with training requirements established under 30 C.F.R. part 48, subpart (B), as amended, and 30 C.F.R. part 77, as amended.

(E) Each operator of a surface coal mine shall establish, keep current, and make available for inspection an emergency medical plan that includes

the telephone numbers of the division of mineral resources management and of an emergency medical services organization the services of which are required to be retained under division (C) of this section. The chief shall adopt rules in accordance with Chapter 119. of the Revised Code that establish any additional information required to be included in an emergency medical plan.

(F) Each operator of an underground coal mine or surface coal mine shall provide or contract to obtain emergency medical services training or first aid training, as applicable, at the operator's expense, that is sufficient to train and maintain the certification of the number of employees necessary to comply with division (B) of this section and that is sufficient to train employees as required under division (D) of this section and to comply with division (C) of this section.

(G) The division may provide emergency medical services training for coal mine employees by operating an emergency medical services training program accredited under section 4765.17 of the Revised Code or by contracting with the operator of an emergency medical services training program accredited under that section to provide that training. The division may charge coal mine operators a uniform part of the unit cost per trainee.

(H) No coal mine operator shall violate or fail to comply with this section.

Sec. 1711.11. (A) No person shall operate any concession at any fair or exposition conducted by a county or independent agricultural society or by the Ohio expositions commission without first obtaining from the director of agriculture a license to do so under division (B) of this section, nor shall any officer, agent, or employee of a county or independent agricultural society or of the Ohio expositions commission grant a privilege or concession to any person to do so, unless the person holds a license.

For the purposes of this section, "concession" means any show, amusement other than an amusement ride as defined in ~~division (A) of~~ section 1711.50 of the Revised Code, game, or novelty stand operation at a fair or exposition, but does not include food or drink operations.

(B) A license shall be issued by the director only upon a written application containing a detailed description of the concession. Blank applications for licenses shall be prepared and furnished by the director.

(C) No license shall be issued until the applicant has paid a fee of fifty seventy dollars to the director, except that no fee shall be collected from nonprofit organizations which are recorded as such by the secretary of state or with the internal revenue service. The director shall pay the fee into the state treasury to the credit of the amusement ride inspection fund established

by section 1711.53 of the Revised Code.

(D) A license issued under this section shall contain a detailed description of the concession licensed, shall expire on the thirty-first day of December following the date of issue, and shall be kept by the licensee in a conspicuous place where the licensee's concession is in operation.

(E)(1) The director shall employ and provide training for a chief inspector and additional inspectors and employees as necessary to administer and enforce this section. The director may appoint or contract with other persons to perform inspections of concessions, provided that the persons meet the qualifications for inspectors established by rules adopted under division (G) of this section and are not owners or employees of owners of any concession subject to inspection under this section. No person shall inspect a concession who, within six months prior to the date of inspection, was an employee of the owner of the concession.

(2) Before the director contracts with other persons to inspect concessions, the director shall seek the advice of the advisory council on amusement ride safety on whether to contract with ~~such~~ those persons. ~~Such~~ The advice shall not be binding upon the director. After having received the advice of the council the director may proceed to contract for amusement ride inspectors and award the contract to the lowest responsive and responsible bidder in accordance with section 9.312 of the Revised Code. In order to determine the lowest responsive and responsible bid, the director, with the advice of the council, shall adopt rules governing the terms of the contract between the department of agriculture and the inspector. The rules shall prescribe the training and work experience required of an inspector, any insurance or bonds required of an inspector, and all the services the inspector will be required to perform on behalf of the department in an efficient professional manner.

(F) This section does not require the officers of any ~~such county or independent agricultural~~ society or of the Ohio expositions commission to grant any privilege or concession to any licensee.

(G) The director shall enforce this section and, in accordance with Chapter 119. of the Revised Code, adopt all rules that are necessary for its enforcement. If the director finds that this section has been violated or that the licensee has been dishonest or has been fraudulent in dealings with the public, the director, in accordance with Chapter 119. of the Revised Code, shall revoke the licensee's license or fine the licensee not more than one thousand dollars, or both. The director, for a period not exceeding two years from the date of revocation, may refuse to issue another license to a person for a concession for which the person's license has been revoked.

Notwithstanding section 119.12 of the Revised Code, all appeals from any fine by, or order of, the director shall be to the court of common pleas of the county where the place of business of the person is located or to the common pleas court of the county in which the person is a resident or in which the concession is located.

(H) Any person holding a license issued under this section who permits or tolerates at any place on the fairground where the person's concession is in operation, any immoral show, lottery device, game of chance, or gambling of any kind, including pool selling and paddle wheels, or who violates the terms of the license issued to the person, shall forfeit the license, and the director shall not issue any other license to the person until after a period of two years from the forfeiture. For the purposes of this division, "lottery device," "game of chance," and "gambling of any kind" do not include the sale of lottery tickets by the state lottery commission pursuant to Chapter 3770. of the Revised Code at the state fairground during the state fair. For the purposes of this section and section 1711.09 of the Revised Code, contests, games, tournaments, and other activities, the outcome of which is predominantly determined by the skill of the contestants, participants, or players, whether or not the contestants, participants, or players pay a price for the opportunity to win a prize, do not constitute a game of chance or gambling within the meaning, purpose, and intent of this section and section 1711.09 of the Revised Code or sections 2915.01 to 2915.04 of the Revised Code. The foregoing definition does not apply where the contest, game, tournament, or other activity; contains or includes any mechanical or physical device which directly or indirectly impedes, impairs, or thwarts the skill of the contestant, participant, or player.

Sec. 1711.53. (A)(1) No person shall operate an amusement ride within the state without a permit issued by the director of agriculture under division (A)(2) of this section. The owner of an amusement ride, whether the ride is a temporary amusement ride or a permanent amusement ride, who desires to operate the amusement ride within the state shall, prior to the operation of the amusement ride and annually thereafter, submit to the department of agriculture an application for a permit, together with the appropriate permit and inspection fee, on a form to be furnished by the department. Prior to issuing any permit the department shall, within thirty days after the date on which it receives the application, inspect each amusement ride described in the application. The owner of an amusement ride shall have the amusement ride ready for inspection not later than two hours after the time that is requested by the person for the inspection.

(2) For each amusement ride found to comply with the rules of adopted

by the director ~~issued~~ under division (B) of this section and division (B) of section 1711.551 of the Revised Code, the director shall issue an annual permit, provided that evidence of liability insurance coverage for the amusement ride as required by section 1711.54 of the Revised Code is on file with the department.

(3) The director shall issue with each permit a decal indicating that the amusement ride has been issued the permit. The owner of the amusement ride shall affix the decal on the ride at a location where the decal is easily visible to the patrons of the ride. A copy of the permit shall be kept on file at the same address as the location of the amusement ride identified on the permit, and shall be made available for inspection, upon reasonable demand, by any person. An owner may operate an amusement ride prior to obtaining a permit, provided that ~~such~~ the operation is for the purpose of testing the amusement ride or training amusement ride operators and other employees of the owner and the amusement ride is not open to the public.

(B) The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules providing for a schedule of fines, with no fine exceeding five thousand dollars, for violations of sections 1711.50 to 1711.57 of the Revised Code or any rules ~~promulgated pursuant to~~ adopted under this division and for the classification of amusement rides and rules for the safe operation and inspection of all amusement rides as are necessary for amusement ride safety and for the protection of the general public. Rules adopted by the director for the safe operation and inspection of amusement rides shall be reasonable and based upon generally accepted engineering standards and practices. In adopting rules under this section, the director may adopt by reference, in whole or in part, the national fire code or the national electrical code prepared by the national fire protection association, the standards of ASTM or the American national standards institute, or any other principles, tests, or standards of nationally recognized technical or scientific authorities. Insofar as is practicable and consistent with sections 1711.50 to 1711.57 of the Revised Code, rules adopted under this division shall be consistent with the rules of other states. The department shall cause sections 1711.50 to 1711.57 of the Revised Code and the rules adopted in accordance with this division and division (B) of section 1711.551 of the Revised Code to be published in pamphlet form and a copy to be furnished without charge to each owner of an amusement ride who holds a current permit or is an applicant therefor.

(C) With respect to an application for a permit for an amusement ride, an owner may apply to the director ~~of agriculture~~ for a waiver or modification of any rule adopted under division (B) of this section if there

are practical difficulties or unnecessary hardships for the amusement ride to comply with ~~such the~~ rules. Any application ~~must shall~~ set forth the reasons for ~~such the~~ request. The director, with the approval of the advisory council on amusement ride safety, may waive or modify the application of a rule to any amusement ride if the public safety is secure. Any authorization by the director under this division shall be in writing and shall set forth the conditions under which the waiver or modification is authorized, and the department shall retain separate records of all proceedings under this division.

(D)(1) The director shall employ and provide for training of a chief inspector and additional inspectors and employees as may be necessary to administer and enforce sections 1711.50 to 1711.57 of the Revised Code. The director may appoint or contract with other persons to perform inspections of amusement rides, provided that the persons meet the qualifications for inspectors established by rules adopted under division (B) of this section and are not owners, or employees of owners, of any amusement ride subject to inspection under sections 1711.50 to 1711.57 of the Revised Code. No person shall inspect an amusement ride who, within six months prior to the date of inspection, was an employee of the owner of the ride.

(2) Before the director contracts with other persons to inspect amusement rides, the director shall seek the advice of the advisory council on amusement ride safety on whether to contract with ~~such those~~ persons. ~~Such The~~ advice shall not be binding upon the director. After having received the advice of the council, the director may proceed to contract with inspectors in accordance with the procedures specified in division (E)(2) of section 1711.11 of the Revised Code.

(3) With the advice and consent of the advisory council on amusement ride safety, the director may employ a special consultant to conduct an independent investigation of an amusement ride accident. This consultant need not be in the civil service of the state, but shall have qualifications to conduct the investigation acceptable to the council.

(E) ~~The (1) Except as otherwise provided in division (E)(1) of this section, the department shall charge fees for each the following amusement ride annual permit, annual inspection, midseason operational inspection, and any reinspection, as follows fees:~~

Permit	\$ 50
Annual inspection and reinspection <u>per ride:</u>	
Kiddie rides	\$ 50 <u>100</u>
Roller coaster	\$ 500 <u>950</u>

Aerial lifts or bungee jumping facilities	\$300 <u>450</u>
<u>Go karts</u>	<u>\$5</u>
Other rides	\$400 <u>160</u>
Midseason operational inspection per ride	\$ <u>40 25</u>
<u>Expedited inspection per ride</u>	<u>\$100</u>
<u>Failure to cancel scheduled inspection per ride</u>	<u>\$100</u>
<u>Failure to have amusement ride ready for inspection per ride</u>	<u>\$100</u>

The go kart inspection fee is in addition to the inspection fee for the go kart track.

The fees for an expedited inspection, failure to cancel a scheduled inspection, and failure to have an amusement ride ready for inspection do not apply to go karts.

As used in division (E)(1) of this section, "expedited inspection" means an inspection of an amusement ride by the department not later than ten days after the owner of the amusement ride files an application for a permit under this section.

(2) All ~~permit fees, inspection fees, reinspection fees,~~ and fines collected by the department under sections 1711.50 to 1711.57 of the Revised Code shall be deposited in the state treasury to the credit of the amusement ride inspection fund, which is hereby created, and shall be used only for the purpose of administering and enforcing sections 1711.11 and 1711.50 to 1711.57 of the Revised Code.

(3) The owner of an amusement ride shall be required to pay a reinspection fee only if the reinspection was conducted at the owner's request under division (F) of this section, ~~or~~ if the reinspection is required by division (F) of this section because of an accident, or if the reinspection is required by division (F) of section 1711.55 of the Revised Code. If a reinspection is conducted at the request of the chief officer of a fair, festival, or event where the ride is operating, the reinspection fee shall be charged to the fair, festival, or event.

(4) The rules adopted under division (B) of this section shall ~~contain definitions of~~ define "kiddie rides," "roller coaster," "aerial lifts," "go karts," and "other rides" for purposes of determining the ~~fee fees~~ under this division (E) of this section. The rules shall define "other rides" to include go kart tracks.

(F) A reinspection of an amusement ride shall take place if an accident occurs, if the owner of the ride or the chief officer of the fair, festival, or event where the ride is operating requests a reinspection, or if the

reinspection is required by division (F) of section 1711.55 of the Revised Code.

(G) As a supplement to its annual inspection of a temporary amusement ride, the department may inspect the ride during each scheduled event, as listed in the schedule of events provided to the department by the owner pursuant to division (C) of section 1711.55 of the Revised Code, at which the ride is operated in this state. These supplemental inspections are in addition to any other inspection or reinspection of the ride as may be required under sections 1711.50 to 1711.57 of the Revised Code, and the owner of the temporary amusement ride is not required to pay an inspection or reinspection fee for this supplemental inspection. Nothing in this division shall be construed to prohibit the owner of a temporary amusement ride having a valid permit to operate in this state from operating the ride at a scheduled event before the department conducts a supplemental inspection.

(H) The department ~~shall~~ may annually conduct a midseason operational inspection of every amusement ride upon which it conducts an annual inspection pursuant to division (A) of this section. The midseason operational inspection is in addition to any other inspection or reinspection of the amusement ride as may be required pursuant to sections 1711.50 to 1711.57 of the Revised Code. The owner of an amusement ride shall submit to the department, at the time determined by the department, the midseason operational inspection fee specified in division (E) of this section. The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules specifying the time period during which the department ~~shall~~ will conduct midseason operational inspections.

Sec. 2113.031. (A) As used in this section:

(1) "Financial institution" has the same meaning as in section 5725.01 of the Revised Code. "Financial institution" also includes a credit union and a fiduciary that is not a trust company but that does trust business.

(2) "Funeral and burial expenses" means whichever of the following applies:

(a) The funeral and burial expenses of the decedent that are included in the bill of a funeral director;

(b) The funeral expenses of the decedent that are not included in the bill of a funeral director and that have been approved by the probate court;

(c) The funeral and burial expenses of the decedent that are described in divisions (A)(2)(a) and (b) of this section.

(3) "Surviving spouse" means either of the following:

(a) The surviving spouse of a decedent who died leaving the surviving spouse and no minor children;

(b) The surviving spouse of a decedent who died leaving the surviving spouse and minor children, all of whom are children of the decedent and the surviving spouse.

(B)(1) If the value of the assets of the decedent's estate does not exceed the lesser of two thousand dollars or the amount of the decedent's funeral and burial expenses, any person who is not a surviving spouse and who has paid or is obligated in writing to pay the decedent's funeral and burial expenses may apply to the probate court for an order granting a summary release from administration in accordance with this section.

(2) If either of the following applies, the decedent's surviving spouse may apply to the probate court for an order granting a summary release from administration in accordance with this section:

(a) The decedent's funeral and burial expenses have been prepaid, and the value of the assets of the decedent's estate does not exceed the total of the following items:

(i) The allowance for support that is made under division (A) of section 2106.13 of the Revised Code to the surviving spouse and, if applicable, to the decedent's minor children and that is distributable in accordance with division (B)(1) or (2) of that section;

(ii) An amount, not exceeding two thousand dollars, for the decedent's funeral and burial expenses referred to in division (A)(2)(c) of this section.

(b) The decedent's funeral and burial expenses have not been prepaid, the decedent's surviving spouse has paid or is obligated in writing to pay the decedent's funeral and burial expenses, and the value of the assets of the decedent's estate does not exceed the total of the items referred to in divisions (B)(2)(a)(i) and (ii) of this section.

(C) A probate court shall order a summary release from administration in connection with a decedent's estate only if the court finds that all of the following are satisfied:

(1) A person described in division (B)(1) of this section is the applicant for a summary release from administration, and the value of the assets of the decedent's estate does not exceed the lesser of two thousand dollars or the amount of the decedent's funeral and burial expenses, or the applicant for a summary release from administration is the decedent's surviving spouse, and the circumstances described in division (B)(2)(a) or (b) of this section apply.

(2) The application for a summary release from administration does all of the following:

(a) Describes all assets of the decedent's estate that are known to the applicant;

(b) Is in the form that the supreme court prescribes pursuant to its

powers of superintendence under Section 5 of Article IV, Ohio Constitution, and is consistent with the requirements of this division;

(c) Has been signed and acknowledged by the applicant in the presence of a notary public or a deputy clerk of the probate court;

(d) Sets forth the following information if the decedent's estate includes a described type of asset:

(i) If the decedent's estate includes a motor vehicle, the motor vehicle's year, make, model, body type, manufacturer's vehicle identification number, certificate of title number, and date of death value;

(ii) If the decedent's estate includes an account maintained by a financial institution, that institution's name and the account's complete identifying number and date of death balance;

(iii) If the decedent's estate includes one or more shares of stock or bonds, the total number of the shares and bonds and their total date of death value and, for each share or bond, its serial number, the name of its issuer, its date of death value, and, if any, the name and address of its transfer agent.

(3) The application for a summary release from administration is accompanied by all of the following that apply:

(a) A receipt, contract, or other document that confirms the applicant's payment or obligation to pay the decedent's funeral and burial expenses or, if applicable in the case of the decedent's surviving spouse, the prepayment of the decedent's funeral and burial expenses;

(b) An application for a certificate of transfer as described in section 2113.61 of the Revised Code, if an interest in real property is included in the assets of the decedent's estate;

(c) The fee required by division (A)(59) of section 2101.16 of the Revised Code.

(4) At the time of its determination on the application, there are no pending proceedings for the administration of the decedent's estate and no pending proceedings for relief of the decedent's estate from administration under section 2113.03 of the Revised Code.

(5) At the time of its determination on the application, there are no known assets of the decedent's estate other than the assets described in the application.

(D) If the probate court determines that the requirements of division (C) of this section are satisfied, the probate court shall issue an order that grants a summary release from administration in connection with the decedent's estate. The order has, and shall specify that it has, all of the following effects:

(1) It relieves the decedent's estate from administration.

(2) It directs the delivery to the applicant of the decedent's personal property together with the title to that property.

(3) It directs the transfer to the applicant of the title to any interests in real property included in the decedent's estate.

~~(4) It eliminates the duty of all persons to file an estate tax return and certificate under division (A) of section 5731.21 of the Revised Code in connection with the decedent's estate.~~

~~(5) It eliminates the need for a financial institution, corporation, or other entity or person referred to in any provision of divisions (A) to (F) of section 5731.39 of the Revised Code to obtain, as otherwise would be required by any of those divisions, the written consent of the tax commissioner prior to the delivery, transfer, or payment to the applicant of an asset of the decedent's estate.~~

(E) A certified copy of an order that grants a summary release from administration together with a certified copy of the application for that order constitutes sufficient authority for a financial institution, corporation, or other entity or person referred to in divisions (A) to (F) of section 5731.39 of the Revised Code or for a clerk of a court of common pleas to transfer title to an asset of the decedent's estate to the applicant for the summary release from administration.

(F) This section does not affect the ability of qualified persons to file an application to relieve an estate from administration under section 2113.03 of the Revised Code or to file an application for the grant of letters testamentary or letters of administration in connection with the decedent's estate.

Sec. 2901.01. (A) As used in the Revised Code:

(1) "Force" means any violence, compulsion, or constraint physically exerted by any means upon or against a person or thing.

(2) "Deadly force" means any force that carries a substantial risk that it will proximately result in the death of any person.

(3) "Physical harm to persons" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.

(4) "Physical harm to property" means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.

(5) "Serious physical harm to persons" means any of the following:

(a) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;

(b) Any physical harm that carries a substantial risk of death;

(c) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;

(d) Any physical harm that involves some permanent disfigurement or that involves some temporary, serious disfigurement;

(e) Any physical harm that involves acute pain of such duration as to result in substantial suffering or that involves any degree of prolonged or intractable pain.

(6) "Serious physical harm to property" means any physical harm to property that does either of the following:

(a) Results in substantial loss to the value of the property or requires a substantial amount of time, effort, or money to repair or replace;

(b) Temporarily prevents the use or enjoyment of the property or substantially interferes with its use or enjoyment for an extended period of time.

(7) "Risk" means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.

(8) "Substantial risk" means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.

(9) "Offense of violence" means any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, or 2923.161, of division (A)(1), (2), or (3) of section 2911.12, or of division (B)(1), (2), (3), or (4) of section 2919.22 of the Revised Code or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(b) A violation of an existing or former municipal ordinance or law of this or any other state or the United States, substantially equivalent to any section, division, or offense listed in division (A)(9)(a) of this section;

(c) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or the United States, committed purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;

(d) A conspiracy or attempt to commit, or complicity in committing, any offense under division (A)(9)(a), (b), or (c) of this section.

(10)(a) "Property" means any property, real or personal, tangible or intangible, and any interest or license in that property. "Property" includes, but is not limited to, cable television service, other telecommunications service, telecommunications devices, information service, computers, data, computer software, financial instruments associated with computers, other documents associated with computers, or copies of the documents, whether in machine or human readable form, trade secrets, trademarks, copyrights, patents, and property protected by a trademark, copyright, or patent. "Financial instruments associated with computers" include, but are not limited to, checks, drafts, warrants, money orders, notes of indebtedness, certificates of deposit, letters of credit, bills of credit or debit cards, financial transaction authorization mechanisms, marketable securities, or any computer system representations of any of them.

(b) As used in division (A)(10) of this section, "trade secret" has the same meaning as in section 1333.61 of the Revised Code, and "telecommunications service" and "information service" have the same meanings as in section 2913.01 of the Revised Code.

(c) As used in divisions (A)(10) and (13) of this section, "cable television service," "computer," "computer software," "computer system," "computer network," "data," and "telecommunications device" have the same meanings as in section 2913.01 of the Revised Code.

(11) "Law enforcement officer" means any of the following:

(a) A sheriff, deputy sheriff, constable, police officer of a township or joint township police district, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, or state highway patrol trooper;

(b) An officer, agent, or employee of the state or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority;

(c) A mayor, in the mayor's capacity as chief conservator of the peace within the mayor's municipal corporation;

(d) A member of an auxiliary police force organized by county, township, or municipal law enforcement authorities, within the scope of the member's appointment or commission;

(e) A person lawfully called pursuant to section 311.07 of the Revised Code to aid a sheriff in keeping the peace, for the purposes and during the time when the person is called;

(f) A person appointed by a mayor pursuant to section 737.01 of the Revised Code as a special patrolling officer during riot or emergency, for the purposes and during the time when the person is appointed;

(g) A member of the organized militia of this state or the armed forces of the United States, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence;

(h) A prosecuting attorney, assistant prosecuting attorney, secret service officer, or municipal prosecutor;

(i) ~~An Ohio~~ A veterans' home police officer appointed under section 5907.02 of the Revised Code;

(j) A member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code;

(k) A special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code;

(l) The house sergeant at arms if the house sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code and an assistant house sergeant at arms.

(12) "Privilege" means an immunity, license, or right conferred by law, bestowed by express or implied grant, arising out of status, position, office, or relationship, or growing out of necessity.

(13) "Contraband" means any property described in the following categories:

(a) Property that in and of itself is unlawful for a person to acquire or possess;

(b) Property that is not in and of itself unlawful for a person to acquire or possess, but that has been determined by a court of this state, in accordance with law, to be contraband because of its use in an unlawful activity or manner, of its nature, or of the circumstances of the person who acquires or possesses it, including, but not limited to, goods and personal property described in division (D) of section 2913.34 of the Revised Code;

(c) Property that is specifically stated to be contraband by a section of the Revised Code or by an ordinance, regulation, or resolution;

(d) Property that is forfeitable pursuant to a section of the Revised Code, or an ordinance, regulation, or resolution, including, but not limited to, forfeitable firearms, dangerous ordnance, obscene materials, and goods and personal property described in division (D) of section 2913.34 of the Revised Code;

(e) Any controlled substance, as defined in section 3719.01 of the Revised Code, or any device, paraphernalia, money as defined in section 1301.01 of the Revised Code, or other means of exchange that has been, is

being, or is intended to be used in an attempt or conspiracy to violate, or in a violation of, Chapter 2925. or 3719. of the Revised Code;

(f) Any gambling device, paraphernalia, money as defined in section 1301.01 of the Revised Code, or other means of exchange that has been, is being, or is intended to be used in an attempt or conspiracy to violate, or in the violation of, Chapter 2915. of the Revised Code;

(g) Any equipment, machine, device, apparatus, vehicle, vessel, container, liquid, or substance that has been, is being, or is intended to be used in an attempt or conspiracy to violate, or in the violation of, any law of this state relating to alcohol or tobacco;

(h) Any personal property that has been, is being, or is intended to be used in an attempt or conspiracy to commit, or in the commission of, any offense or in the transportation of the fruits of any offense;

(i) Any property that is acquired through the sale or other transfer of contraband or through the proceeds of contraband, other than by a court or a law enforcement agency acting within the scope of its duties;

(j) Any computer, computer system, computer network, computer software, or other telecommunications device that is used in a conspiracy to commit, an attempt to commit, or the commission of any offense, if the owner of the computer, computer system, computer network, computer software, or other telecommunications device is convicted of or pleads guilty to the offense in which it is used;

(k) Any property that is material support or resources and that has been, is being, or is intended to be used in an attempt or conspiracy to violate, or in the violation of, section 2909.22, 2909.23, or 2909.24 of the Revised Code or of section 2921.32 of the Revised Code when the offense or act committed by the person aided or to be aided as described in that section is an act of terrorism. As used in division (A)(13)(k) of this section, "material support or resources" and "act of terrorism" have the same meanings as in section 2909.21 of the Revised Code.

(14) A person is "not guilty by reason of insanity" relative to a charge of an offense only if the person proves, in the manner specified in section 2901.05 of the Revised Code, that at the time of the commission of the offense, the person did not know, as a result of a severe mental disease or defect, the wrongfulness of the person's acts.

(B)(1)(a) Subject to division (B)(2) of this section, as used in any section contained in Title XXIX of the Revised Code that sets forth a criminal offense, "person" includes all of the following:

(i) An individual, corporation, business trust, estate, trust, partnership, and association;

(ii) An unborn human who is viable.

(b) As used in any section contained in Title XXIX of the Revised Code that does not set forth a criminal offense, "person" includes an individual, corporation, business trust, estate, trust, partnership, and association.

(c) As used in division (B)(1)(a) of this section:

(i) "Unborn human" means an individual organism of the species *Homo sapiens* from fertilization until live birth.

(ii) "Viable" means the stage of development of a human fetus at which there is a realistic possibility of maintaining and nourishing of a life outside the womb with or without temporary artificial life-sustaining support.

(2) Notwithstanding division (B)(1)(a) of this section, in no case shall the portion of the definition of the term "person" that is set forth in division (B)(1)(a)(ii) of this section be applied or construed in any section contained in Title XXIX of the Revised Code that sets forth a criminal offense in any of the following manners:

(a) Except as otherwise provided in division (B)(2)(a) of this section, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as a violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, or 2903.22 of the Revised Code, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence, but that does violate section 2919.12, division (B) of section 2919.13, or section 2919.151, 2919.17, or 2919.18 of the Revised Code, may be punished as a violation of section 2919.12, division (B) of section 2919.13, or section 2919.151, 2919.17, or 2919.18 of the Revised Code, as applicable. Consent is sufficient under this division if it is of the type otherwise adequate to permit medical treatment to the pregnant woman, even if it does not comply with section 2919.12 of the Revised Code.

(b) In a manner so that the offense is applied or is construed as applying to a woman based on an act or omission of the woman that occurs while she is or was pregnant and that results in any of the following:

(i) Her delivery of a stillborn baby;

(ii) Her causing, in any other manner, the death in utero of a viable, unborn human that she is carrying;

(iii) Her causing the death of her child who is born alive but who dies from one or more injuries that are sustained while the child is a viable, unborn human;

(iv) Her causing her child who is born alive to sustain one or more injuries while the child is a viable, unborn human;

(v) Her causing, threatening to cause, or attempting to cause, in any other manner, an injury, illness, or other physiological impairment, regardless of its duration or gravity, or a mental illness or condition, regardless of its duration or gravity, to a viable, unborn human that she is carrying.

(C) As used in Title XXIX of the Revised Code:

(1) "School safety zone" consists of a school, school building, school premises, school activity, and school bus.

(2) "School," "school building," and "school premises" have the same meanings as in section 2925.01 of the Revised Code.

(3) "School activity" means any activity held under the auspices of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district, a governing board of an educational service center, or the governing body of a school for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code.

(4) "School bus" has the same meaning as in section 4511.01 of the Revised Code.

Sec. 2921.51. (A) As used in this section:

(1) "Peace officer" means a sheriff, deputy sheriff, marshal, deputy marshal, member of the organized police department of a municipal corporation, or township constable, who is employed by a political subdivision of this state, a member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, a member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code, a state university law enforcement officer appointed under section 3345.04 of the Revised Code, ~~an Ohio~~ a veterans' home police officer appointed under section 5907.02 of the Revised Code, a special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code, or a state highway patrol trooper and whose primary duties are to preserve the peace, to protect life and property, and to enforce the laws, ordinances, or rules of the state or any of its political subdivisions.

(2) "Private police officer" means any security guard, special police officer, private detective, or other person who is privately employed in a

police capacity.

(3) "Impersonate" means to act the part of, assume the identity of, wear the uniform or any part of the uniform of, or display the identification of a particular person or of a member of a class of persons with purpose to make another person believe that the actor is that particular person or is a member of that class of persons.

(B) No person shall impersonate a peace officer or a private police officer.

(C) No person, by impersonating a peace officer or a private police officer, shall arrest or detain any person, search any person, or search the property of any person.

(D) No person, with purpose to commit or facilitate the commission of an offense, shall impersonate a peace officer, a private police officer, or an officer, agent, or employee of the state.

(E) No person shall commit a felony while impersonating a peace officer, a private police officer, or an officer, agent, or employee of the state.

(F) It is an affirmative defense to a charge under division (B) of this section that the impersonation of the peace officer was for a lawful purpose.

(G) Whoever violates division (B) of this section is guilty of a misdemeanor of the fourth degree. Whoever violates division (C) or (D) of this section is guilty of a misdemeanor of the first degree. If the purpose of a violation of division (D) of this section is to commit or facilitate the commission of a felony, a violation of division (D) is a felony of the fourth degree. Whoever violates division (E) of this section is guilty of a felony of the third degree.

Sec. 2935.01. As used in this chapter:

(A) "Magistrate" has the same meaning as in section 2931.01 of the Revised Code.

(B) "Peace officer" includes, except as provided in section 2935.081 of the Revised Code, a sheriff; deputy sheriff; marshal; deputy marshal; member of the organized police department of any municipal corporation, including a member of the organized police department of a municipal corporation in an adjoining state serving in Ohio under a contract pursuant to section 737.04 of the Revised Code; member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code; member of a police force employed by a regional transit authority under division (Y) of section 306.05 of the Revised Code; state university law enforcement officer appointed under section 3345.04 of the Revised Code; enforcement agent of the department of public safety designated under section 5502.14 of the Revised Code; employee of the

department of taxation to whom investigation powers have been delegated under section 5743.45 of the Revised Code; employee of the department of natural resources who is a natural resources law enforcement staff officer designated pursuant to section 1501.013 of the Revised Code, a forest officer designated pursuant to section 1503.29 of the Revised Code, a preserve officer designated pursuant to section 1517.10 of the Revised Code, a wildlife officer designated pursuant to section 1531.13 of the Revised Code, a park officer designated pursuant to section 1541.10 of the Revised Code, or a state watercraft officer designated pursuant to section 1547.521 of the Revised Code; individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code; Ohio veterans' home police officer appointed under section 5907.02 of the Revised Code; special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code; police constable of any township; police officer of a township or joint township police district; the house sergeant at arms if the house sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code; and an assistant house sergeant at arms; officer or employee of the bureau of criminal identification and investigation established pursuant to section 109.51 of the Revised Code who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the officer's or employee's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program and who is providing assistance upon request to a law enforcement officer or emergency assistance to a peace officer pursuant to section 109.54 or 109.541 of the Revised Code; and, for the purpose of arrests within those areas, and for the purposes of Chapter 5503. of the Revised Code, and the filing of and service of process relating to those offenses witnessed or investigated by them, includes the superintendent and troopers of the state highway patrol.

(C) "Prosecutor" includes the county prosecuting attorney and any assistant prosecutor designated to assist the county prosecuting attorney, and, in the case of courts inferior to courts of common pleas, includes the village solicitor, city director of law, or similar chief legal officer of a municipal corporation, any such officer's assistants, or any attorney designated by the prosecuting attorney of the county to appear for the prosecution of a given case.

(D) "Offense," except where the context specifically indicates otherwise, includes felonies, misdemeanors, and violations of ordinances of municipal corporations and other public bodies authorized by law to adopt

penal regulations.

Sec. 2935.03. (A)(1) A sheriff, deputy sheriff, marshal, deputy marshal, municipal police officer, township constable, police officer of a township or joint township police district, member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code, state university law enforcement officer appointed under section 3345.04 of the Revised Code, ~~Ohio~~ veterans' home police officer appointed under section 5907.02 of the Revised Code, or special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, college, university, ~~Ohio~~ veterans' home operated under Chapter 5907. of the Revised Code, or port authority in which the peace officer is appointed, employed, or elected, a law of this state, an ordinance of a municipal corporation, or a resolution of a township.

(2) A peace officer of the department of natural resources or an individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the peace officer's or individual's territorial jurisdiction, a law of this state.

(3) The house sergeant at arms if the house sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code and an assistant house sergeant at arms shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the sergeant at ~~arm's~~ arms's or assistant sergeant at ~~arm's~~ arms's territorial jurisdiction specified in division (D)(1)(a) of section 101.311 of the Revised Code or while providing security pursuant to division (D)(1)(f) of section 101.311 of the Revised Code, a law of this state, an ordinance of a municipal corporation, or a resolution of a township.

(B)(1) When there is reasonable ground to believe that an offense of violence, the offense of criminal child enticement as defined in section 2905.05 of the Revised Code, the offense of public indecency as defined in section 2907.09 of the Revised Code, the offense of domestic violence as defined in section 2919.25 of the Revised Code, the offense of violating a protection order as defined in section 2919.27 of the Revised Code, the

offense of menacing by stalking as defined in section 2903.211 of the Revised Code, the offense of aggravated trespass as defined in section 2911.211 of the Revised Code, a theft offense as defined in section 2913.01 of the Revised Code, or a felony drug abuse offense as defined in section 2925.01 of the Revised Code, has been committed within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, college, university, ~~Ohio~~ veterans' home operated under Chapter 5907. of the Revised Code, or port authority in which the peace officer is appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer, a peace officer described in division (A) of this section may arrest and detain until a warrant can be obtained any person who the peace officer has reasonable cause to believe is guilty of the violation.

(2) For purposes of division (B)(1) of this section, the execution of any of the following constitutes reasonable ground to believe that the offense alleged in the statement was committed and reasonable cause to believe that the person alleged in the statement to have committed the offense is guilty of the violation:

(a) A written statement by a person alleging that an alleged offender has committed the offense of menacing by stalking or aggravated trespass;

(b) A written statement by the administrator of the interstate compact on mental health appointed under section 5119.51 of the Revised Code alleging that a person who had been hospitalized, institutionalized, or confined in any facility under an order made pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code has escaped from the facility, from confinement in a vehicle for transportation to or from the facility, or from supervision by an employee of the facility that is incidental to hospitalization, institutionalization, or confinement in the facility and that occurs outside of the facility, in violation of section 2921.34 of the Revised Code;

(c) A written statement by the administrator of any facility in which a person has been hospitalized, institutionalized, or confined under an order made pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code alleging that the person has escaped from the facility, from confinement in a vehicle for transportation to or from the facility, or from supervision by an employee of the facility that is incidental to hospitalization, institutionalization, or confinement in the facility and that occurs outside of the facility, in violation

of section 2921.34 of the Revised Code.

(3)(a) For purposes of division (B)(1) of this section, a peace officer described in division (A) of this section has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that a particular person is guilty of committing the offense if any of the following occurs:

(i) A person executes a written statement alleging that the person in question has committed the offense of domestic violence or the offense of violating a protection order against the person who executes the statement or against a child of the person who executes the statement.

(ii) No written statement of the type described in division (B)(3)(a)(i) of this section is executed, but the peace officer, based upon the peace officer's own knowledge and observation of the facts and circumstances of the alleged incident of the offense of domestic violence or the alleged incident of the offense of violating a protection order or based upon any other information, including, but not limited to, any reasonably trustworthy information given to the peace officer by the alleged victim of the alleged incident of the offense or any witness of the alleged incident of the offense, concludes that there are reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that the person in question is guilty of committing the offense.

(iii) No written statement of the type described in division (B)(3)(a)(i) of this section is executed, but the peace officer witnessed the person in question commit the offense of domestic violence or the offense of violating a protection order.

(b) If pursuant to division (B)(3)(a) of this section a peace officer has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that a particular person is guilty of committing the offense, it is the preferred course of action in this state that the officer arrest and detain that person pursuant to division (B)(1) of this section until a warrant can be obtained.

If pursuant to division (B)(3)(a) of this section a peace officer has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that family or household members have committed the offense against each other, it is the preferred course of action in this state that the officer, pursuant to division (B)(1) of this section, arrest and detain until a warrant can be obtained the family or household member who

committed the offense and whom the officer has reasonable cause to believe is the primary physical aggressor. There is no preferred course of action in this state regarding any other family or household member who committed the offense and whom the officer does not have reasonable cause to believe is the primary physical aggressor, but, pursuant to division (B)(1) of this section, the peace officer may arrest and detain until a warrant can be obtained any other family or household member who committed the offense and whom the officer does not have reasonable cause to believe is the primary physical aggressor.

(c) If a peace officer described in division (A) of this section does not arrest and detain a person whom the officer has reasonable cause to believe committed the offense of domestic violence or the offense of violating a protection order when it is the preferred course of action in this state pursuant to division (B)(3)(b) of this section that the officer arrest that person, the officer shall articulate in the written report of the incident required by section 2935.032 of the Revised Code a clear statement of the officer's reasons for not arresting and detaining that person until a warrant can be obtained.

(d) In determining for purposes of division (B)(3)(b) of this section which family or household member is the primary physical aggressor in a situation in which family or household members have committed the offense of domestic violence or the offense of violating a protection order against each other, a peace officer described in division (A) of this section, in addition to any other relevant circumstances, should consider all of the following:

(i) Any history of domestic violence or of any other violent acts by either person involved in the alleged offense that the officer reasonably can ascertain;

(ii) If violence is alleged, whether the alleged violence was caused by a person acting in self-defense;

(iii) Each person's fear of physical harm, if any, resulting from the other person's threatened use of force against any person or resulting from the other person's use or history of the use of force against any person, and the reasonableness of that fear;

(iv) The comparative severity of any injuries suffered by the persons involved in the alleged offense.

(e)(i) A peace officer described in division (A) of this section shall not require, as a prerequisite to arresting or charging a person who has committed the offense of domestic violence or the offense of violating a protection order, that the victim of the offense specifically consent to the

filing of charges against the person who has committed the offense or sign a complaint against the person who has committed the offense.

(ii) If a person is arrested for or charged with committing the offense of domestic violence or the offense of violating a protection order and if the victim of the offense does not cooperate with the involved law enforcement or prosecuting authorities in the prosecution of the offense or, subsequent to the arrest or the filing of the charges, informs the involved law enforcement or prosecuting authorities that the victim does not wish the prosecution of the offense to continue or wishes to drop charges against the alleged offender relative to the offense, the involved prosecuting authorities, in determining whether to continue with the prosecution of the offense or whether to dismiss charges against the alleged offender relative to the offense and notwithstanding the victim's failure to cooperate or the victim's wishes, shall consider all facts and circumstances that are relevant to the offense, including, but not limited to, the statements and observations of the peace officers who responded to the incident that resulted in the arrest or filing of the charges and of all witnesses to that incident.

(f) In determining pursuant to divisions (B)(3)(a) to (g) of this section whether to arrest a person pursuant to division (B)(1) of this section, a peace officer described in division (A) of this section shall not consider as a factor any possible shortage of cell space at the detention facility to which the person will be taken subsequent to the person's arrest or any possibility that the person's arrest might cause, contribute to, or exacerbate overcrowding at that detention facility or at any other detention facility.

(g) If a peace officer described in division (A) of this section intends pursuant to divisions (B)(3)(a) to (g) of this section to arrest a person pursuant to division (B)(1) of this section and if the officer is unable to do so because the person is not present, the officer promptly shall seek a warrant for the arrest of the person.

(h) If a peace officer described in division (A) of this section responds to a report of an alleged incident of the offense of domestic violence or an alleged incident of the offense of violating a protection order and if the circumstances of the incident involved the use or threatened use of a deadly weapon or any person involved in the incident brandished a deadly weapon during or in relation to the incident, the deadly weapon that was used, threatened to be used, or brandished constitutes contraband, and, to the extent possible, the officer shall seize the deadly weapon as contraband pursuant to section 2933.43 of the Revised Code. Upon the seizure of a deadly weapon pursuant to division (B)(3)(h) of this section, section 2933.43 of the Revised Code shall apply regarding the treatment and

disposition of the deadly weapon. For purposes of that section, the "underlying criminal offense" that was the basis of the seizure of a deadly weapon under division (B)(3)(h) of this section and to which the deadly weapon had a relationship is any of the following that is applicable:

(i) The alleged incident of the offense of domestic violence or the alleged incident of the offense of violating a protection order to which the officer who seized the deadly weapon responded;

(ii) Any offense that arose out of the same facts and circumstances as the report of the alleged incident of the offense of domestic violence or the alleged incident of the offense of violating a protection order to which the officer who seized the deadly weapon responded.

(4) If, in the circumstances described in divisions (B)(3)(a) to (g) of this section, a peace officer described in division (A) of this section arrests and detains a person pursuant to division (B)(1) of this section, or if, pursuant to division (B)(3)(h) of this section, a peace officer described in division (A) of this section seizes a deadly weapon, the officer, to the extent described in and in accordance with section 9.86 or 2744.03 of the Revised Code, is immune in any civil action for damages for injury, death, or loss to person or property that arises from or is related to the arrest and detention or the seizure.

(C) When there is reasonable ground to believe that a violation of division (A), (B), or (C) of section 4506.15 or a violation of section 4511.19 of the Revised Code has been committed by a person operating a motor vehicle subject to regulation by the public utilities commission of Ohio under Title XLIX of the Revised Code, a peace officer with authority to enforce that provision of law may stop or detain the person whom the officer has reasonable cause to believe was operating the motor vehicle in violation of the division or section and, after investigating the circumstances surrounding the operation of the vehicle, may arrest and detain the person.

(D) If a sheriff, deputy sheriff, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code, special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code, township constable, police officer of a township or joint township police district, state university law enforcement officer appointed under section 3345.04 of the Revised Code, peace officer of the department of natural resources, individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code, the

house sergeant at arms if the house sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code, or an assistant house sergeant at arms is authorized by division (A) or (B) of this section to arrest and detain, within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, port authority, college, or university in which the officer is appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer, a person until a warrant can be obtained, the peace officer, outside the limits of that territory, may pursue, arrest, and detain that person until a warrant can be obtained if all of the following apply:

(1) The pursuit takes place without unreasonable delay after the offense is committed;

(2) The pursuit is initiated within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, port authority, college, or university in which the peace officer is appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer;

(3) The offense involved is a felony, a misdemeanor of the first degree or a substantially equivalent municipal ordinance, a misdemeanor of the second degree or a substantially equivalent municipal ordinance, or any offense for which points are chargeable pursuant to division (G) of section 4507.021 of the Revised Code.

(E) In addition to the authority granted under division (A) or (B) of this section:

(1) A sheriff or deputy sheriff may arrest and detain, until a warrant can be obtained, any person found violating section 4503.11, 4503.21, or 4549.01, sections 4549.08 to 4549.12, section 4549.62, or Chapter 4511. or 4513. of the Revised Code on the portion of any street or highway that is located immediately adjacent to the boundaries of the county in which the sheriff or deputy sheriff is elected or appointed.

(2) A member of the police force of a township police district created under section 505.48 of the Revised Code, a member of the police force of a joint township police district created under section 505.481 of the Revised Code, or a township constable appointed in accordance with section 509.01 of the Revised Code, who has received a certificate from the Ohio peace

officer training commission under section 109.75 of the Revised Code, may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section, other than sections 4513.33 and 4513.34 of the Revised Code, on the portion of any street or highway that is located immediately adjacent to the boundaries of the township police district or joint township police district, in the case of a member of a township police district or joint township police district police force, or the unincorporated territory of the township, in the case of a township constable. However, if the population of the township that created the township police district served by the member's police force, or the townships that created the joint township police district served by the member's police force, or the township that is served by the township constable, is sixty thousand or less, the member of the township police district or joint police district police force or the township constable may not make an arrest under division (E)(2) of this section on a state highway that is included as part of the interstate system.

(3) A police officer or village marshal appointed, elected, or employed by a municipal corporation may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section on the portion of any street or highway that is located immediately adjacent to the boundaries of the municipal corporation in which the police officer or village marshal is appointed, elected, or employed.

(4) A peace officer of the department of natural resources or an individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section, other than sections 4513.33 and 4513.34 of the Revised Code, on the portion of any street or highway that is located immediately adjacent to the boundaries of the lands and waters that constitute the territorial jurisdiction of the peace officer.

(F)(1) A department of mental health special police officer or a department of mental retardation and developmental disabilities special police officer may arrest without a warrant and detain until a warrant can be obtained any person found committing on the premises of any institution under the jurisdiction of the particular department a misdemeanor under a law of the state.

A department of mental health special police officer or a department of mental retardation and developmental disabilities special police officer may

arrest without a warrant and detain until a warrant can be obtained any person who has been hospitalized, institutionalized, or confined in an institution under the jurisdiction of the particular department pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code and who is found committing on the premises of any institution under the jurisdiction of the particular department a violation of section 2921.34 of the Revised Code that involves an escape from the premises of the institution.

(2)(a) If a department of mental health special police officer or a department of mental retardation and developmental disabilities special police officer finds any person who has been hospitalized, institutionalized, or confined in an institution under the jurisdiction of the particular department pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code committing a violation of section 2921.34 of the Revised Code that involves an escape from the premises of the institution, or if there is reasonable ground to believe that a violation of section 2921.34 of the Revised Code has been committed that involves an escape from the premises of an institution under the jurisdiction of the department of mental health or the department of mental retardation and developmental disabilities and if a department of mental health special police officer or a department of mental retardation and developmental disabilities special police officer has reasonable cause to believe that a particular person who has been hospitalized, institutionalized, or confined in the institution pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code is guilty of the violation, the special police officer, outside of the premises of the institution, may pursue, arrest, and detain that person for that violation of section 2921.34 of the Revised Code, until a warrant can be obtained, if both of the following apply:

(i) The pursuit takes place without unreasonable delay after the offense is committed;

(ii) The pursuit is initiated within the premises of the institution from which the violation of section 2921.34 of the Revised Code occurred.

(b) For purposes of division (F)(2)(a) of this section, the execution of a written statement by the administrator of the institution in which a person had been hospitalized, institutionalized, or confined pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code alleging that the person has escaped from the premises of the institution in violation of section 2921.34

of the Revised Code constitutes reasonable ground to believe that the violation was committed and reasonable cause to believe that the person alleged in the statement to have committed the offense is guilty of the violation.

(G) As used in this section:

(1) A "department of mental health special police officer" means a special police officer of the department of mental health designated under section 5119.14 of the Revised Code who is certified by the Ohio peace officer training commission under section 109.77 of the Revised Code as having successfully completed an approved peace officer basic training program.

(2) A "department of mental retardation and developmental disabilities special police officer" means a special police officer of the department of mental retardation and developmental disabilities designated under section 5123.13 of the Revised Code who is certified by the Ohio peace officer training council under section 109.77 of the Revised Code as having successfully completed an approved peace officer basic training program.

(3) "Deadly weapon" has the same meaning as in section 2923.11 of the Revised Code.

(4) "Family or household member" has the same meaning as in section 2919.25 of the Revised Code.

(5) "Street" or "highway" has the same meaning as in section 4511.01 of the Revised Code.

(6) "Interstate system" has the same meaning as in section 5516.01 of the Revised Code.

(7) "Peace officer of the department of natural resources" means an employee of the department of natural resources who is a natural resources law enforcement staff officer designated pursuant to section 1501.013, a forest officer designated pursuant to section 1503.29, a preserve officer designated pursuant to section 1517.10, a wildlife officer designated pursuant to section 1531.13, a park officer designated pursuant to section 1541.10, or a state watercraft officer designated pursuant to section 1547.521 of the Revised Code.

Sec. 2935.031. Any agency, instrumentality, or political subdivision of the state that employs a sheriff, deputy sheriff, constable, marshal, deputy marshal, police officer, member of a metropolitan housing authority police force, state university law enforcement officer, or ~~Ohio~~ veterans' home ~~police~~ police officer with arrest authority under section 2935.03 of the Revised Code or that employs other persons with arrest authority under the Revised Code, shall adopt a policy for the pursuit in a motor vehicle of any

person who violates a law of this state or an ordinance of a municipal corporation. The chief law enforcement officer or other chief official of the agency, instrumentality, or political subdivision shall formally advise each peace officer or other person with arrest authority it employs of the pursuit policy adopted by that agency, instrumentality, or political subdivision pursuant to this section.

Sec. 3318.01. As used in sections 3318.01 to 3318.20 of the Revised Code:

(A) "Ohio school facilities commission" means the commission created pursuant to section 3318.30 of the Revised Code.

(B) "Classroom facilities" means rooms in which pupils regularly assemble in public school buildings to receive instruction and education and such facilities and building improvements for the operation and use of such rooms as may be needed in order to provide a complete educational program, and may include space within which a child day-care facility or a community resource center is housed. "Classroom facilities" includes any space necessary for the operation of a vocational education program for secondary students in any school district that operates such a program.

(C) "Project" means a project to construct or acquire classroom facilities, or to reconstruct or make additions to existing classroom facilities, to be used for housing the applicable school district and its functions.

(D) "School district" means a local, exempted village, or city school district as such districts are defined in Chapter 3311. of the Revised Code, acting as an agency of state government, performing essential governmental functions of state government pursuant to sections 3318.01 and 3318.20 of the Revised Code.

For purposes of assistance provided under sections 3318.40 to 3318.45 of the Revised Code, the term "school district" as used in this section and in divisions (A), (C), and (D) of section 3318.03 and in sections 3318.031, 3318.033, 3318.042, 3318.07, 3318.08, 3318.083, 3318.084, 3318.085, 3318.086, 3318.10, 3318.11, 3318.12, 3318.13, 3318.14, 3318.15, 3318.16, 3318.19, and 3318.20 of the Revised Code means a joint vocational school district established pursuant to section 3311.18 of the Revised Code.

(E) "School district board" means the board of education of a school district.

(F) "Net bonded indebtedness" means the difference between the sum of the par value of all outstanding and unpaid bonds and notes which a school district board is obligated to pay, any amounts the school district is obligated to pay under lease-purchase agreements entered into under section 3313.375 of the Revised Code, and the par value of bonds authorized by the electors

but not yet issued, the proceeds of which can lawfully be used for the project, and the amount held in the sinking fund and other indebtedness retirement funds for their redemption. Notes issued for school buses in accordance with section 3327.08 of the Revised Code, notes issued in anticipation of the collection of current revenues, and bonds issued to pay final judgments shall not be considered in calculating the net bonded indebtedness.

"Net bonded indebtedness" does not include indebtedness arising from the acquisition of land to provide a site for classroom facilities constructed, acquired, or added to pursuant to sections 3318.01 to 3318.20 of the Revised Code.

(G) "Board of elections" means the board of elections of the county containing the most populous portion of the school district.

(H) "County auditor" means the auditor of the county in which the greatest value of taxable property of such school district is located.

(I) "Tax duplicates" means the general tax lists and duplicates prescribed by sections 319.28 and 319.29 of the Revised Code.

(J) "Required level of indebtedness" means:

(1) In the case of districts in the first percentile, five per cent of the district's valuation for the year preceding the year in which the controlling board approved the project under section 3318.04 of the Revised Code.

(2) In the case of districts ranked in a subsequent percentile, five per cent of the district's valuation for the year preceding the year in which the controlling board approved the project under section 3318.04 of the Revised Code, plus [two one-hundredths of one per cent multiplied by (the percentile in which the district ranks for the fiscal year preceding the fiscal year in which the controlling board approved the district's project minus one)].

(K) "Required percentage of the basic project costs" means one per cent of the basic project costs times the percentile in which the district ranks for the fiscal year preceding the fiscal year in which the controlling board approved the district's project.

(L) "Basic project cost" means a cost amount determined in accordance with rules adopted under section 111.15 of the Revised Code by the Ohio school facilities commission. The basic project cost calculation shall take into consideration the square footage and cost per square foot necessary for the grade levels to be housed in the classroom facilities, the variation across the state in construction and related costs, the cost of the installation of site utilities and site preparation, the cost of demolition of all or part of any existing classroom facilities that are abandoned under the project, the cost of insuring the project until it is completed, any contingency reserve amount

rescribed by the commission under section 3318.086 of the Revised Code, and the professional planning, administration, and design fees that a district may have to pay to undertake a classroom facilities project.

For a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, the basic project cost calculation for a project under those sections shall also take into account the types of laboratory spaces and program square footages needed for the vocational education programs for high school students offered by the school district.

"Basic project cost" also includes the value of classroom facilities authorized in a pre-existing bond issue as described in section 3318.033 of the Revised Code.

(M) A(1) Except for a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, a "school district's portion of the basic project cost" means the amount determined under section 3318.032 of the Revised Code.

(2) For a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, a "school district's portion of the basic project cost" means the amount determined under division (C) of section 3318.42 of the Revised Code.

(N) "Child day-care facility" means space within a classroom facility in which the needs of infants, toddlers, preschool children, and school children are provided for by persons other than the parent or guardian of such children for any part of the day, including persons not employed by the school district operating such classroom facility.

(O) "Community resource center" means space within a classroom facility in which comprehensive services that support the needs of families and children are provided by community-based social service providers.

(P) "Valuation" means the total value of all property in the district as listed and assessed for taxation on the tax duplicates.

(Q) "Percentile" means the percentile in which the district is ranked pursuant to division (D) of section 3318.011 of the Revised Code.

(R) "Installation of site utilities" means the installation of a site domestic water system, site fire protection system, site gas distribution system, site sanitary system, site storm drainage system, and site telephone and data system.

(S) "Site preparation" means the earthwork necessary for preparation of the building foundation system, the paved pedestrian and vehicular circulation system, playgrounds on the project site, and lawn and planting on the project site.

Sec. 3318.011. For purposes of providing assistance under sections 3318.01 to 3318.20 of the Revised Code, the department of education shall annually do all of the following:

(A) Calculate the adjusted valuation per pupil of each city, local, and exempted village school district according to the following formula:

$$\frac{\text{The district's valuation per pupil}}{[\$30,000 \times (1 - \text{the district's income factor})]}.$$

For purposes of this calculation:

(1) "Valuation per pupil" for a district means its average taxable value, divided by its formula ADM reported under section 3317.03 of the Revised Code for the previous fiscal year.

(2) "Average taxable value" means 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) "Income factor" has the same meaning as in section 3317.02 of the Revised Code.

(B) Calculate for each district the three-year average of the adjusted valuations per pupil calculated for the district for the current and two preceding fiscal years;

(C) Rank all such districts in order of adjusted valuation per pupil from the district with the lowest three-year average adjusted valuation per pupil to the district with the highest three-year average adjusted valuation per pupil;

(D) Divide such ranking into percentiles with the first percentile containing the one per cent of school districts having the lowest three-year average adjusted valuations per pupil and the one-hundredth percentile containing the one per cent of school districts having the highest three-year average adjusted valuations per pupil;

(E) Determine the school districts that have three-year average adjusted valuations per pupil that are greater than the median three-year average adjusted valuation per pupil for all school districts in the state;

(F) ~~Certify~~ On or before the first day of September, certify the information described in divisions (A) to (E) of this section to the Ohio school facilities commission.

Sec. 3318.03. (A) Before conducting an on-site evaluation of a school district under section 3318.02 of the Revised Code, at the request of the district board of education, the Ohio school facilities commission shall examine any classroom facilities needs assessment that has been conducted by the district and any master plan developed for meeting the facility needs of the district.

(B) Upon conducting the on-site evaluation under section 3318.02 of the

Revised Code, the Ohio school facilities commission shall make a determination of all of the following:

~~(A)~~(1) The needs of the school district for additional classroom facilities;

~~(B)~~(2) The number of classroom facilities to be included in a project, including classroom facilities authorized by a bond issue described in section 3318.033 of the Revised Code, and the basic project cost of constructing, acquiring, reconstructing, or making additions to each such facility;

~~(C)~~(3) 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, including bonds authorized by the district's electors as described in section 3318.033 of the Revised Code, and by the issuance of bonds under section 3318.05 of the Revised Code;

~~(D)~~(4) The remaining amount of such cost that shall be supplied by the state;

~~(E)~~(5) The amount of the state's portion to be encumbered in accordance with section 3318.11 of the Revised Code in the current and subsequent fiscal bienniums from funds appropriated for purposes of sections 3318.01 to 3318.20 of the Revised Code.

(C) 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, sparsity of population, and other factors make larger schools impracticable.

(D) Sections 125.81 and 153.04 of the Revised Code shall not apply to classroom facilities constructed under either sections 3318.01 to 3318.20 or sections 3318.40 to 3318.45 of the Revised Code.

Sec. 3318.031. The Ohio school facilities commission shall consider student and staff safety when reviewing design plans for classroom facility construction projects proposed under this chapter. After consulting with appropriate education and law enforcement personnel, the commission may require as a condition of project approval under either section 3318.03 or division (B)(1) of section 3318.41 of the Revised Code such changes in the design plans as the commission believes will advance or improve student

nd staff safety in the proposed classroom facility.

To carry out its duties under this section, the commission shall review and, if necessary, amend any construction and design standards used in its project approval process, including standards for location and number of exits and location of restrooms, with a focus on advancing student and staff safety.

Sec. 3318.032. (A) The portion of the basic project cost supplied by the school district shall be the greater of:

(1) The required percentage of the basic project costs, ~~determined based on the district's percentile ranking at the time the controlling board approved the project under section 3318.04 of the Revised Code;~~

(2) An amount necessary to raise the school district's net bonded indebtedness, as of the date the controlling board approved the project, to within five thousand dollars of the required level of indebtedness.

(B) The amount of the district's share determined under this section shall be calculated only as of the date the controlling board approved the project, and that amount applies throughout the one-year period permitted under section 3318.05 of the Revised Code for the district's electors to approve the propositions described in that section. If the amount reserved and encumbered for a project is released because the electors do not approve those propositions within that year, and the school district later receives the controlling board's approval for the project, the district's portion shall be recalculated in accordance with this section as of the date of the controlling board's subsequent approval.

(C) Notwithstanding anything to the contrary in division (A) or (B) of this section, at no time shall a school district's portion of the basic project cost be greater than ninety-five per cent of the total basic project cost.

Sec. 3318.033. If the electors of a school district have approved the issuance of bonds for the acquisition of classroom facilities within eighteen months prior to the school district board's receipt of a notification by the Ohio school facilities commission that the school district is eligible for state assistance under either sections 3318.01 to 3318.20 or sections 3318.40 to 3318.45 of the Revised Code, and if the classroom facilities supported by that bond measure comply with the commission's design specifications for such a project ~~under sections 3318.01 to 3318.20 of the Revised Code~~, the commission shall include the value of those classroom facilities in the basic project cost of the school district's project determined under section 3318.03 or division (A)(1)(a) of section 3318.41 of the Revised Code and shall deduct the amount of the bonds authorized in that bond measure from the amount of the school district's portion of the basic project cost as determined

under section 3318.032 ~~or 3318.42~~ of the Revised Code.

A school district board may combine the credit for previously issued bonds authorized under this section along with any local donated contribution, as described under section 3318.084 of the Revised Code, in meeting the school district's obligation to raise its portion of the basic project cost of its classroom facilities project under sections 3318.01 to 3318.20 ~~or sections 3318.40 to 3318.45~~ of the Revised Code.

Sec. 3318.042. (A) The board of education of any school district that is receiving assistance under sections 3318.01 to 3318.20 of the Revised Code after May 20, 1997, ~~or under sections 3318.40 to 3318.45 of the Revised Code~~, and whose project is still under construction, may request that the Ohio school facilities commission examine whether the circumstances prescribed in either division (B)(1) or (2) of this section exist in the school district. If the commission so finds, the commission shall review the school district's original assessment and approved project ~~under sections 3318.01 to 3318.20 of the Revised Code~~, and consider providing additional assistance to the school district to correct the prescribed conditions found to exist in the district. Additional assistance under this section shall be limited to additions to one or more buildings, remodeling of one or more buildings, or changes to the infrastructure of one or more buildings.

(B) Consideration of additional assistance to a school district under this section is warranted in either of the following circumstances:

(1) Additional work is needed to correct an oversight or deficiency not identified or included in the district's initial assessment.

(2) Other conditions exist that, in the opinion of the ~~commission~~ commission, warrant additions or remodeling of the project facilities or changes to infrastructure associated with the district's project that were not identified in the initial assessment and plan.

(C) If the commission decides in favor of providing additional assistance to any school district under this section, the school district shall be responsible for paying for its portion of the cost of the additions, remodeling, or ~~infrastructure~~ infrastructure changes pursuant to section 3318.083 of the Revised Code. If, after making a financial evaluation of the school district, the commission determines that the school district is unable without undue hardship, according to the guidelines adopted by the commission, to fund the school district portion of the increase, then the state and the school district shall enter into an agreement whereby the state shall pay the portion of the cost increase attributable to the school district which is determined to be in excess of any local resources available to the district and the district shall thereafter reimburse the state. The commission shall

establish the district's schedule for reimbursing the state, which shall not extend beyond five years. Debt incurred under this section shall not be included in the calculation of the net indebtedness of the school district under section 133.06 of the Revised Code.

Sec. 3318.08. ~~¶~~ Except in the case of a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, if the requisite favorable vote on the election is obtained, or if the school district board has resolved to apply the proceeds of a property tax levy or the proceeds of an income tax, or a combination of proceeds from such taxes, as authorized in section 3318.052 of the Revised Code, the Ohio school facilities commission, upon certification to it of either the results of the election or the resolution under section 3318.052 of the Revised Code, shall enter into a written agreement with the school district board for the construction and sale of the project, ~~which~~. In the case of a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, if the school district board of education and the school district electors have satisfied the conditions prescribed in division (D)(1) of section 3318.41 of the Revised Code, the commission shall enter into an agreement with the school district board for the construction and sale of the project. In either case, the agreement shall include, but need not be limited to, the following provisions:

(A) The sale and issuance of bonds or notes in anticipation thereof, as soon as practicable after the execution of the agreement, in an amount equal to the school district's portion of the basic project cost, including any bonds previously authorized by the district's electors as described in section 3318.033 of the Revised Code and any securities authorized under division (J) of section 133.06 of the Revised Code and dedicated by the school district board to payment of the district's portion of the basic project cost of the project; provided, that if at that time the county treasurer of each county in which the school district is located has not commenced the collection of taxes on the general duplicate of real and public utility property for the year in which the controlling board approved the project, the school district board shall authorize the issuance of a first installment of bond anticipation notes in an amount specified by the agreement, which amount shall not exceed an amount necessary to raise the net bonded indebtedness of the school district as of the date of the controlling board's approval to within five thousand dollars of the required level of indebtedness for the preceding year. In the event that a first installment of bond anticipation notes is issued, the school district board shall, as soon as practicable after the county treasurer of each county in which the school district is located has commenced the collection

of taxes on the general duplicate of real and public utility property for the year in which the controlling board approved the project, authorize the issuance of a second and final installment of bond anticipation notes or a first and final issue of bonds.

The combined value of the first and second installment of bond anticipation notes or the value of the first and final issue of bonds shall be equal to the school district's portion of the basic project cost. The proceeds of any such bonds shall be used first to retire any bond anticipation notes. Otherwise, the proceeds of such bonds and of any bond anticipation notes, except the premium and accrued interest thereon, shall be deposited in the school district's project construction fund. In determining the amount of net bonded indebtedness for the purpose of fixing the amount of an issue of either bonds or bond anticipation notes, gross indebtedness shall be reduced by moneys in the bond retirement fund only to the extent of the moneys therein on the first day of the year preceding the year in which the controlling board approved the project. Should there be a decrease in the tax valuation of the school district so that the amount of indebtedness that can be incurred on the tax duplicates for the year in which the controlling board approved the project is less than the amount of the first installment of bond anticipation notes, there shall be paid from the school district's project construction fund to the school district's bond retirement fund to be applied against such notes an amount sufficient to cause the net bonded indebtedness of the school district, as of the first day of the year following the year in which the controlling board approved the project, to be within five thousand dollars of the required level of indebtedness for the year in which the controlling board approved the project. The maximum amount of indebtedness to be incurred by any school district board as its share of the cost of the project is either an amount that will cause its net bonded indebtedness, as of the first day of the year following the year in which the controlling board approved the project, to be within five thousand dollars of the required level of indebtedness, or an amount equal to the required percentage of the basic project costs, whichever is greater. All bonds and bond anticipation notes shall be issued in accordance with Chapter 133. of the Revised Code, and notes may be renewed as provided in section 133.22 of the Revised Code.

(B) The transfer of such funds of the school district board available for the project, together with the proceeds of the sale of the bonds or notes, except premium, accrued interest, and interest included in the amount of the issue, to the school district's project construction fund;

(C) For all school districts except joint vocational school districts that

receive assistance under sections 3318.40 to 3318.45 of the Revised Code, the following provisions as applicable:

(1) If section 3318.052 of the Revised Code applies, the earmarking of the proceeds of a tax levied under section 5705.21 of the Revised Code for general ongoing permanent or under section 5705.218 of the Revised Code for the purpose of permanent improvements, or the proceeds of a school district income tax levied under Chapter 5748. of the Revised Code, or the proceeds from a combination of those two taxes, in an amount to pay all or part of the service charges on bonds issued to pay the school district portion of the project and an amount equivalent to all or part of the tax required under division (B) of section 3318.05 of the Revised Code;

~~(D)(2)~~ If section 3318.052 of the Revised Code does not apply, either of the following:

~~(1)(a)~~ The levy of the tax authorized at the election for the payment of maintenance costs, as specified in division (B) of section 3318.05 of the Revised Code;

~~(2)(b)~~ If the school district electors have approved a continuing tax of at least two mills for each dollar of valuation for general ongoing permanent improvements under section 5705.21 of the Revised Code and that tax can be used for maintenance, the earmarking of an amount of the proceeds from such tax for maintenance of classroom facilities as specified in division (B) of section 3318.05 of the Revised Code.

(D) For joint vocational school districts that receive assistance under sections 3318.40 to 3318.45 of the Revised Code, provision for deposit of school district moneys dedicated to maintenance of the classroom facilities acquired under those sections as prescribed in section 3318.43 of the Revised Code:

(E) Dedication of any local donated contribution as provided for under section 3318.084 of the Revised Code, including a schedule for depositing such moneys applied as an offset of the district's obligation to levy the tax described in division (B) of section 3318.05 of the Revised Code as required under division (D)(2) of section 3318.084 of the Revised Code;

(F) Ownership of or interest in the project during the period of construction, which shall be divided between the commission and the school district board in proportion to their respective contributions to the school district's project construction fund;

(G) Maintenance of the state's interest in the project until any obligations issued for the project under section 3318.26 of the Revised Code are no longer outstanding;

(H) The insurance of the project by the school district from the time

e is an insurable interest therein and so long as the state retains any ownership or interest in the project pursuant to division (F) of this section, in such amounts and against such risks as the commission shall require; provided, that the cost of any required insurance until the project is completed shall be a part of the basic project cost;

(I) The certification by the director of budget and management that funds are available and have been set aside to meet the state's share of the basic project cost as approved by the controlling board pursuant to either section 3318.04 or division (B)(1) of section 3318.41 of the Revised Code;

(J) Authorization of the school district board to advertise for and receive construction bids for the project, for and on behalf of the commission, and to award contracts in the name of the state subject to approval by the commission;

(K) Provisions for the disbursement of moneys from the school district's project account upon issuance by the commission or the commission's designated representative of vouchers for work done to be certified to the commission by the treasurer of the school district board;

(L) Disposal of any balance left in the school district's project construction fund upon completion of the project;

(M) Limitations upon use of the project or any part of it so long as any obligations issued to finance the project under section 3318.26 of the Revised Code are outstanding;

(N) Provision for vesting the state's interest in the project to the school district board when the obligations issued to finance the project under section 3318.26 of the Revised Code are outstanding;

(O) Provision for deposit of an executed copy of the agreement in the office of the commission;

(P) Provision for termination of the contract and release of the funds encumbered at the time of the conditional approval, if the proceeds of the sale of the bonds of the school district board are not paid into the school district's project construction fund and if bids for the construction of the project have not been taken within such period after the execution of the agreement as may be fixed by the commission;

(Q) Provision for the school district to maintain the project in accordance with a plan approved by the commission;

(R)(1) For all school districts except ~~those~~ a district undertaking a project under section 3318.38 of the Revised Code or a joint vocational school district undertaking a project under sections 3318.40 to 3318.45 of the Revised Code, provision that all state funds reserved and encumbered to pay the state share of the cost of the project pursuant to section 3318.03 of

the Revised Code be spent on the construction or acquisition of the project prior to the expenditure of any funds provided by the school district to pay for its share of the project cost, unless the school district certifies to the commission that expenditure by the school district is necessary to maintain the tax-exempt status of notes or bonds issued by the school district to pay for its share of the project cost or to comply with applicable temporary investment periods or spending exceptions to rebate as provided for under federal law in regard to those notes or bonds, in which cases, the school district may commit to spend, or spend, a portion of the funds it provides;

(2) For a school district ~~districts~~ district undertaking a project under section 3318.38 of the Revised Code or a joint vocational school district undertaking a project under sections 3318.40 to 3318.45 of the Revised Code, provision that the state funds reserved and encumbered and the funds provided by the school district to pay the basic project cost of any segment of the project, or of the entire project if it is not divided into segments, be spent on the construction and acquisition of the project simultaneously in proportion to the state's and the school district's respective shares of that basic project cost as determined under section 3318.032 of the Revised Code or, if the district is a joint vocational school district, under section 3318.42 of the Revised Code.

(S) A provision stipulating that the commission may prohibit the district from proceeding with any project if the commission determines that the site is not suitable for construction purposes. The commission may perform soil tests in its determination of whether a site is appropriate for construction purposes.

(T) A provision stipulating that, unless otherwise authorized by the commission, any contingency reserve portion of the construction budget prescribed by the commission shall be used only to pay costs resulting from unforeseen job conditions, to comply with rulings regarding building and other codes, to pay costs related to design clarifications or corrections to contract documents, and to pay the costs of settlements or judgments related to the project as provided under section 3318.086 of the Revised Code.

Sec. 3318.084. (A) Notwithstanding anything to the contrary in Chapter 3318. of the Revised Code, a school district board may apply any local donated contribution toward ~~either or both~~ any of the following:

(1) The district's portion of the basic project cost of a project under either sections 3318.01 to 3318.20 or sections 3318.40 to 3318.45 of the Revised Code to reduce the amount of bonds the district otherwise must issue in order to receive state assistance under those sections;

(2) ~~As~~ If the school district is not a joint vocational school district

proceeding under sections 3318.40 to 3318.45 of the Revised Code, an offset of all or part of a district's obligation to levy the tax described in division (B) of section 3318.05 of the Revised Code, which shall be applied only in the manner prescribed in division (B) of this section;

(3) If the school district is a joint vocational school district proceeding under sections 3318.40 to 3318.45 of the Revised Code, all or part of the amount the school district is obligated to set aside for maintenance of the classroom facilities acquired under that project pursuant to section 3318.43 of the Revised Code.

(B) No school district board shall apply any local donated contribution under division (A)(2) of this section unless the Ohio school facilities commission first approves that application.

Upon the request of the school district board to apply local donated contribution under division (A)(2) of this section, the commission in consultation with the department of taxation shall determine the amount of total revenue that likely would be generated by one-half mill of the tax described in division (B) of section 3318.05 of the Revised Code over the entire twenty-three-year period required under that section and shall deduct from that amount any amount of local donated contribution that the board has committed to apply under division (A)(2) of this section. The commission then shall determine in consultation with the department of taxation the rate of tax over twenty-three years necessary to generate the amount of a one-half mill tax not offset by the local donated contribution. Notwithstanding anything to the contrary in section 3318.06, 3318.061, or 3318.361 of the Revised Code, the rate determined by the commission shall be the rate for which the district board shall seek elector approval under those sections to meet its obligation under division (B) of section 3318.05 of the Revised Code. In the case of a complete offset of the district's obligation under division (B) of section 3318.05 of the Revised Code, the district shall not be required to levy the tax otherwise required under that section. At the end of the twenty-three-year period of the tax required under division (B) of section 3318.05 of the Revised Code, whether or not the tax is actually levied, the commission in consultation of the department of taxation shall recalculate the amount that would have been generated by the tax if it had been levied at one-half mill. If the total amount actually generated over that period from both the tax that was actually levied and any local donated contribution applied under division (A)(2) of this section is less than the amount that would have been raised by a one-half mill tax, the district shall pay any difference. If the total amount actually raised in such manner is greater than the amount that would have been raised by a one-half mill tax

the difference shall be zero and no payments shall be made by either the district or the commission.

(C) As used in this section, "local donated contribution" means any of the following:

(1) Any moneys irrevocably donated or granted to a school district board by a source other than the state which the board has the authority to apply to the school district's project under sections 3318.01 to 3318.20 of the Revised Code and which the board has pledged for that purpose by resolution adopted by a majority of its members;

(2) Any irrevocable letter of credit issued on behalf of a school district or any cash a school district has on hand, including any year-end operating fund balances, that can be spent for classroom facilities, either of which the school district board has encumbered for payment of the school district's share of its project under sections 3318.01 to 3318.20 of the Revised Code and either of which has been approved by the commission in consultation with the department of education;

(3) Any moneys spent by a source other than the school district or the state for construction or renovation of specific classroom facilities that have been approved by the commission as part of the basic project cost of the district's project. The school district, the commission, and the entity providing the local donated contribution under division (C)(3) of this section shall enter into an agreement ~~indentifying~~ identifying the classroom facilities to be acquired by the expenditures made by that entity. The agreement shall include, but not be limited to, stipulations that require an audit by the commission of such expenditures made on behalf of the district and that specify the maximum amount of credit to be allowed for those expenditures. Upon completion of the construction or renovation, the commission shall determine the actual amount that the commission will credit, at the request of the district board, toward the district's portion of the basic project cost, any project cost overruns, or the basic project cost of future segments if the project has been divided into segments under section 3318.38 of the Revised Code. The actual amount of the credit shall not exceed the lesser of the amount specified in the agreement or the actual cost of the construction or renovation.

(D) No state moneys shall be released for a project to which this section applies until:

(1) Any local donated contribution authorized under division (A)(1) of this section is first deposited into the school district's project construction fund.

(2) The school district board and the commission have included a

stipulation in their agreement entered into under section 3318.08 of the Revised Code under which the board will deposit into a fund approved by the commission according to a schedule that does not extend beyond the anticipated completion date of the project the total amount of any local donated contribution authorized under division (A)(2) or (3) of this section and dedicated by the board for that purpose.

However, if any local donated contribution as described in division (C)(3) of this section has been approved under this section, the state moneys may be released even if the entity providing that local donated contribution has not spent the moneys so dedicated as long as the agreement required under that section has been executed.

Sec. 3318.086. The construction budget for any project under sections 3318.01 to 3318.20 or sections 3318.40 to 3318.45 of the Revised Code shall contain a contingency reserve in an amount prescribed by the Ohio school facilities commission, which unless otherwise authorized by the commission, shall be used only to pay costs resulting from unforeseen job conditions, to comply with rulings regarding building and other codes, to pay costs related to design clarifications or corrections to contract documents, and to pay the costs of settlements or judgments related to the project.

Sec. 3318.10. When such working drawings, specifications, and estimates of cost have been approved by the school district board and the Ohio school facilities commission, the treasurer of the school district board shall advertise for construction bids in accordance with section 3313.46 of the Revised Code. Such notices shall state that plans and specifications for the project are on file in the office of the commission and such other place as may be designated in such notice, and the time and place when and where bids therefor will be received.

The form of proposal to be submitted by bidders shall be supplied by the commission. Bidders may be permitted to bid upon all the branches of work and materials to be furnished and supplied, upon any branch thereof, or upon all or any thereof.

When the construction bids for all branches of work and materials have been tabulated, the commission shall cause to be prepared a revised estimate of the basic project cost based upon the lowest responsible bids received. If such revised estimate exceeds the estimated basic project cost as approved by the controlling board pursuant to section 3318.04 or division (B)(1) of section 3318.41 of the Revised Code, no contracts may be entered into pursuant to this section unless such revised estimate is approved by the commission and by the controlling board ~~referred to in section 3318.04 of~~

~~the Revised Code.~~ When such revised estimate has been prepared, and after such approvals are given, if necessary, and if the school district board has caused to be transferred to the project construction fund the proceeds from the sale of the first or first and final installment of its bonds or bond anticipation notes pursuant to the provision of written agreement required by division (B) of section 3318.08 of the Revised Code, and when the director of budget and management has certified that there is a balance in the appropriation, not otherwise obligated to pay precedent obligations, pursuant to which the state's share of such revised estimate is required to be paid, the contract for all branches of work and materials to be furnished and supplied, or for any branch thereof as determined by the school district board, shall be awarded by the school district board to the lowest responsible bidder subject to the approval of the commission. Such award shall be made within sixty days after the date on which the bids are opened, and the successful bidder shall enter into a contract within ten days after the successful bidder is notified of the award of the contract.

Subject to the approval of the commission, the school district board may reject all bids and readvertise. Any contract made under this section shall be made in the name of the state and executed on its behalf by the president and treasurer of the school district board.

The provisions of sections 9.312 and 3313.46 of the Revised Code, which are applicable to construction contracts of boards of education, shall apply to construction contracts for the project.

The remedies afforded to any subcontractor, materials supplier, laborer, mechanic, or persons furnishing material or machinery for the project under sections 1311.26 to 1311.32 of the Revised Code, shall apply to contracts entered into under this section and the itemized statement required by section 1311.26 of the Revised Code shall be filed with the school district board.

Sec. 3318.12. (A) The Ohio school facilities commission shall cause to be transferred to the school district's project construction fund the necessary amounts from amounts appropriated by the general assembly and set aside for such purpose, from time to time as may be necessary to pay obligations chargeable to such fund when due. All investment earnings of a school district's project construction fund shall be credited to the fund.

(B) The treasurer of the school district board shall disburse funds from the school district's project construction fund, including investment earnings credited to the fund, only upon the approval of the commission or the commission's designated representative. The commission or the commission's designated representative shall issue vouchers against such

fund, in such amounts, and at such times as required by the contracts for construction of the project.

(C) After the project has been completed:

~~(A)(1)~~ Any investment earnings remaining in the project construction fund that are attributable to the school district's contribution to the fund shall be transferred to the district's maintenance fund required by division (B) of section 3318.05 or section 3318.43 of the Revised Code, and the money shall be used solely for maintaining the classroom facilities included in the project.

~~(B)(2)~~ Any investment earnings remaining in the project construction fund that are attributable to the state's contribution to the fund shall be transferred to the commission for expenditure pursuant to sections 3318.01 to 3318.20 or sections 3318.40 to 3318.45 of the Revised Code.

~~(C)(3)~~ Any other surplus remaining in the school district's project construction fund after the project has been completed shall be transferred to the commission and the school district board in proportion to their respective contributions to the fund. The commission shall use the money transferred to it under this division for expenditure pursuant to sections 3318.01 to 3318.20 or sections 3318.40 to 3318.45 of the Revised Code.

(D) Pursuant to appropriations of the general assembly, any moneys transferred to the commission under division (C)(2) or (3) of this section from a project construction fund for a project under sections 3318.40 to 3318.45 of the Revised Code may be used for future expenditures for projects under sections 3318.40 to 3318.45 of the Revised Code, notwithstanding the two per cent annual limit specified in division (B) of section 3318.40 of the Revised Code.

Sec. 3318.15. There is hereby created the public school building fund within the state treasury consisting of any moneys transferred or appropriated to the fund by the general assembly and any grants, gifts, or contributions received by the Ohio school facilities commission to be used for the purposes of the fund. All investment earnings of the fund shall be credited to the fund.

Moneys transferred or appropriated to the fund by the general assembly and moneys in the fund from grants, gifts, and contributions shall be used for the purposes of ~~sections 3318.01 to 3318.20 Chapter 3318.~~ of the Revised Code. ~~The moneys in the fund received from payments to the state pursuant to division (C) of section 3318.08 of the Revised Code shall be held in a separate account in the fund. Such moneys may be used partially for the purposes of sections 3318.01 to 3318.20 of the Revised Code and partially to pay bond service charges as defined in division (C) of section~~

~~3318.21 of the Revised Code on obligations~~ as prescribed by the general assembly.

Sec. 3318.19. A complete detailed report of the expenditure of funds pursuant to ~~the provisions of~~ sections 3318.01 to 3318.20 and sections 3318.40 to 3318.45 of the Revised Code shall be made by the Ohio school facilities commission biennially to the general assembly. The report shall contain a detailed statement of classroom facilities acquired in whole or in part by the state and sold to school districts, ~~the moneys received from school districts for credit against their indebtedness to the state,~~ and such other information as will advise the general assembly of the nature and progress of this program.

Sec. 3318.25. There is hereby created in the state treasury the school building program assistance fund. The fund shall consist of the proceeds of obligations issued for the purposes of such fund pursuant to section 3318.26 of the Revised Code that are payable from moneys in the lottery profits education fund created in section 3770.06 of the Revised Code or pursuant to section 151.03 of the Revised Code. All investment earnings of the fund shall be credited to the fund. Moneys in the fund shall be used as directed by the Ohio school facilities commission for the cost to the state of constructing classroom facilities under ~~sections 3318.01 to 3318.20~~ Chapter 3318. of the Revised Code as prescribed by the general assembly.

Sec. 3318.26. (A) The provisions of this section apply only to obligations issued by the issuing authority prior to December 1, 1999.

(B) Subject to the limitations provided in section 3318.29 of the Revised Code, the issuing authority, upon the certification by the Ohio school facilities commission to the issuing authority of the amount of moneys or additional moneys needed in the school building program assistance fund for the purposes of sections 3318.01 to 3318.20 and sections 3318.40 to 3318.45 of the Revised Code, or needed for capitalized interest, for funding reserves, and for paying costs and expenses incurred in connection with the issuance, carrying, securing, paying, redeeming, or retirement of the obligations or any obligations refunded thereby, including payment of costs and expenses relating to letters of credit, lines of credit, insurance, put agreements, standby purchase agreements, indexing, marketing, remarketing and administrative arrangements, interest swap or hedging agreements, and any other credit enhancement, 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 obligations issued to provide moneys for the school building program assistance fund shall be deposited

by the treasurer of state in special funds, including reserve funds, as provided in the bond proceedings. The issuing authority may appoint trustees, paying agents, and transfer agents and may retain the services of financial advisors 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 issuing authority's judgment to carry out this section. The costs of such services are payable from the school building program assistance fund or any special fund determined by the issuing authority.

(C) The holders or owners of such obligations shall have no right to have moneys raised by taxation obligated or pledged, and moneys raised by taxation shall not be obligated or pledged, for the payment of bond service charges. Such holders or owners shall have no rights to payment of bond service charges from any money or property received by the commission, treasurer of state, or the state, or from any other use of the proceeds of the sale of the obligations, and no such moneys may be used for the payment of bond service charges, except for accrued interest, capitalized interest, and reserves funded from proceeds received upon the sale of the obligations and except as otherwise expressly provided in the applicable bond proceedings pursuant to written directions by the treasurer of state. The right of such holders and owners to payment of bond service charges shall be limited to all or that portion of the pledged receipts and those special funds pledged thereto pursuant to the bond proceedings 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 resolution or 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 the limits specified in section 3318.29 of the Revised Code, 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, subject to any applicable limitation under section 3318.29 of the Revised Code. 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 shall also 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 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, except as required by section 3770.06 of the Revised Code. 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., 133., or 135. of the Revised Code, but subject to any special provisions of sections 3318.21 to 3318.29 of the Revised Code, with respect to particular funds or moneys, provided that any bank or trust company that 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) The lease or sublease of any interest of the school district or the state in one or more projects as defined in division (C) of section 3318.01 of the Revised Code, or in one or more permanent improvements, to or from the issuing authority, as provided in one or more lease or sublease agreements between the school or the state and the issuing authority;

(9) Any other or additional agreements with the holders of the obligations, or the trustee therefor, relating to the obligations or the security therefor.

(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 valid and sufficient for all purposes as if the 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 resolution or order authorizing the issuance of the obligations, any provisions that may be contained in any bond proceedings, and other provisions that 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 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, the commission, or the director of budget and management required by sections 3318.21 to 3318.29 of the Revised Code or the bond proceedings; to enjoin unlawful activities; and in the event of default with respect to the payment of any bond service charges on any obligations or in the performance of any covenant or agreement on the part of the issuing authority, the commission, or the director of budget and management 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 or the commission, 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 issuing authority or the state or governmental agencies of the state 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 permanent improvement.

Each duty of the issuing authority and the issuing authority's officers and employees, and of each governmental agency and its officers, members, or employees, undertaken pursuant to the bond proceedings or any agreement or loan made under authority of sections 3318.21 to 3318.29 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) 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, the state teachers retirement system, the public employees retirement system, the school employees retirement system, and the Ohio police and fire pension fund, notwithstanding any other provisions of the Revised Code or rules adopted pursuant thereto by any governmental agency of the state with respect to investments by them, and also are acceptable as security for the deposit of public moneys.

(M) 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 established in accordance with section 1111.14 of the Revised Code and consisting exclusively of any such securities, notwithstanding division (B)(1)(c) of that section. 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.

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

(O) 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 shall be controlling notwithstanding any other provisions of law pertaining thereto.

(P) The issuing authority may covenant in the bond proceedings, and any such covenants shall be controlling notwithstanding any other provision of law, that the state and applicable officers and governmental agencies of

the state, including the general assembly, so long as any obligations are outstanding, shall:

(1) Maintain statutory authority for and cause to be operated the state lottery, including the transfers to and from the lottery profits education fund created in section 3770.06 of the Revised Code so that the pledged receipts shall be sufficient in amount to meet bond service charges, and the establishment and maintenance of any reserves and other requirements provided for in the bond proceedings;

(2) Take or permit no action, by statute or otherwise, that would impair the exclusion from gross income for federal income tax purposes of the interest on any obligations designated by the bond proceeding as tax-exempt obligations.

(Q) There is hereby created the school building program bond service fund, which shall be in the custody of the treasurer of state but shall be separate and apart from and not 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 school building program 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, except as required by section 3770.06 of the Revised Code. During the period beginning with the date of the first issuance of obligations and continuing during such time as any such obligations are outstanding, and so long as moneys in the school building program bond service fund are insufficient to pay all bond service charges on such obligations becoming due in each year, a sufficient amount of the moneys from the lottery profits education fund included in pledged receipts, subject to appropriation for such purpose as provided in section 3770.06 of the Revised Code, are committed and shall be paid to the school building program bond service fund in each year for the purpose of paying the bond service charges becoming due in that year. The school building program bond service fund is a trust fund and is hereby pledged to the payment of bond service charges solely on obligations issued to provide moneys for the school building program assistance fund 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 except as required by section 3770.06 of the Revised Code.

(R) The obligations, the transfer thereof, and the income therefrom,

including any profit made on the sale thereof, at all times shall be free from taxation within the state.

~~Sec. 3318.311. Not less than six months after the effective date of this section, the Ohio school facilities commission shall present to the speaker of the house of representatives, the president of the senate, and the governor a proposal for legislation to provide classroom facilities assistance to joint vocational school districts.~~

Not later than six months after ~~the effective date of this section~~ September 14, 2000, the Ohio school facilities commission shall establish design specifications for classroom facilities that are appropriate for joint vocational education programs. The specifications shall provide standards for appropriate pupil instruction space but shall not include standards for any vocational education furnishings or equipment that is not comparable to, or the vocational education equivalent of, the furnishings or equipment for which assistance is available to other school districts under sections 3318.01 to 3318.20 of the Revised Code.

Beginning September 1, 2003, from time to time the commission may amend the specifications as determined necessary by the commission; however, any project under sections 3318.40 to 3318.45 of the Revised Code approved by the commission prior to the most recent amendment to the specifications shall not be subject to the provisions of such amendment.

Sec. 3318.36. (A)(1) As used in this section:

~~(1)(a)~~ "Ohio school facilities commission," "classroom facilities," "school district," "school district board," "net bonded indebtedness," "required percentage of the basic project costs," "basic project cost," "valuation," and "percentile" have the same meanings as in section 3318.01 of the Revised Code.

~~(2)(b)~~ "Required level of indebtedness" means five per cent of the school district's valuation for the year preceding the year in which the commission and school district enter into an agreement under division (B) of this section, plus [two one-hundredths of one per cent multiplied by (the percentile in which the district ranks ~~in the fiscal year the commission and the school district enter into such agreement~~ minus one)].

~~(3)(c)~~ "Local resources" means any moneys generated in any manner permitted for a school district board to raise the school district portion of a project undertaken with assistance under sections 3318.01 to 3318.20 of the Revised Code.

(2) For purposes of determining either the required level of indebtedness, as defined in division (A)(1)(b) of this section, or the required percentage of the basic project costs, under division (C)(1) of this section,

the percentile ranking of a school district with which the commission has entered into an agreement under this section between the first day of July and the thirty-first day of August in each fiscal year is the percentile ranking calculated for that district for the immediately preceding fiscal year, and the percentile ranking of a school district with which the commission has entered into such agreement between the first day of September and the thirtieth day of June in each fiscal year is the percentile ranking calculated for that district for the current fiscal year.

(B)(1) There is hereby established the school building assistance expedited local partnership program. Under the program, the Ohio school facilities commission may enter into an agreement with the school district board of any school district under which the school district board may proceed with the new construction or major repairs of a part of the school district's classroom facilities needs, as determined under sections 3318.01 to 3318.20 of the Revised Code, through the expenditure of local resources prior to the school district's eligibility for state assistance under sections 3318.01 to 3318.20 of the Revised Code and may apply that expenditure toward meeting the school district's portion of the basic project cost of the total of the school district's classroom facilities needs, as determined under sections 3318.01 to 3318.20 of the Revised Code and as recalculated under division (E) of this section, that are eligible for state assistance under sections 3318.01 to 3318.20 of the Revised Code when the school district becomes eligible for such state assistance. Any school district that is reasonably expected to receive assistance under sections 3318.01 to 3318.20 of the Revised Code within two fiscal years from the date the school district adopts its resolution under division (B) of this section shall not be eligible to participate in the program.

(2) To participate in the program, a school district board shall first adopt a resolution certifying to the commission the board's intent to participate in the program.

The resolution shall specify the approximate date that the board intends to seek elector approval of any bond or tax measures or to apply other local resources to use to pay the cost of classroom facilities to be constructed under this section. The resolution may specify the application of local resources or elector-approved bond or tax measures after the resolution is adopted by the board, and in such case the board may proceed with a discrete portion of its project under this section as soon as the commission and the controlling board have approved the basic project cost of the district's classroom facilities needs as specified in division (D) of this section. The board shall submit its resolution to the commission not later

n ten days after the date the resolution is adopted by the board.

The commission shall not consider any resolution that is submitted pursuant to division (B)(2) of this section, as amended by this amendment, sooner than September 14, 2000.

(3) Any project under this section shall comply with section 3318.03 of the Revised Code and with any specifications for plans and materials for classroom facilities adopted by the commission under section 3318.04 of the Revised Code.

(4) If a school district that enters into an agreement under this section has not begun a project applying local resources as provided for under that agreement at the time the district is notified by the commission that it is eligible to receive state assistance under sections 3318.01 to 3318.20 of the Revised Code, all assessment and agreement documents entered into under this section are void.

(5) Only construction of or repairs to classroom facilities that have been approved by the commission and have been therefore included as part of a district's basic project cost qualify for application of local resources under this section.

(C) Based on the results of the on-site visits and assessment conducted under division (B)(2) of this section, the commission shall determine the basic project cost of the school district's classroom facilities needs. The commission shall determine the school district's portion of such basic project cost, which shall be the greater of:

(1) The required percentage of the basic project costs, determined based on the school district's percentile ranking ~~in the fiscal year the commission and the school district enter into the agreement under division (B) of this section;~~

(2) An amount necessary to raise the school district's net bonded indebtedness, as of the fiscal year the commission and the school district enter into the agreement under division (B) of this section, to within five thousand dollars of the required level of indebtedness.

(D)(1) When the commission determines the basic project cost of the classroom facilities needs of a school district and the school district's portion of that basic project cost under division (C) of this section, the project shall be conditionally approved. Such conditional approval shall be submitted to the controlling board for approval thereof. The controlling board shall forthwith approve or reject the commission's determination, conditional approval, and the amount of the state's portion of the basic project cost; however, no state funds shall be encumbered under this section. Upon approval by the controlling board, the school district board may identify a

discrete part of its classroom facilities needs, which shall include only new construction of or additions or major repairs to a particular building, to address with local resources. Upon identifying a part of the school district's basic project cost to address with local resources, the school district board may allocate any available school district moneys to pay the cost of that identified part, including the proceeds of an issuance of bonds if approved by the electors of the school district.

All local resources utilized under this division shall first be deposited in the project construction account required under section 3318.08 of the Revised Code.

(2) Unless the school district board exercises its option under division (D)(3) of this section, for a school district to qualify for participation in the program authorized under this section, one of the following conditions shall be satisfied:

(a) The electors of the school district by a majority vote shall approve the levy of taxes outside the ten-mill limitation for a period of twenty-three years at the rate of not less than one-half mill for each dollar of valuation to be used to pay the cost of maintaining the classroom facilities included in the basic project cost as determined by the commission. The form of the ballot to be used to submit the question whether to approve the tax required under this division to the electors of the school district shall be the form for an additional levy of taxes prescribed in section 3318.361 of the Revised Code, which may be combined in a single ballot question with the questions prescribed under section 5705.218 of the Revised Code.

(b) As authorized under division (C) of section 3318.05 of the Revised Code, the school district board shall earmark from the proceeds of a permanent improvement tax levied under section 5705.21 of the Revised Code, an amount equivalent to the additional tax otherwise required under division (D)(2)(a) of this section for the maintenance of the classroom facilities included in the basic project cost as determined by the commission.

(c) The school district board shall apply the proceeds of a tax to leverage bonds as authorized under section 3318.052 of the Revised Code or dedicate a local donated contribution in the manner described in division (B) of section 3318.084 of the Revised Code in an amount equivalent to the additional tax otherwise required under division (D)(2)(a) of this section for the maintenance of the classroom facilities included in the basic project cost as determined by the commission.

(3) A school district board may opt to delay levying the additional tax required under division (D)(2)(a) of this section or earmarking of the proceeds of a permanent improvement tax alternatively required under

division (D)(2)(b) of this section until such time as the school district becomes eligible for state assistance under sections 3318.01 to 3318.20 of the Revised Code. In order to exercise its option under this division, the board shall certify to the commission a resolution indicating the board's intent to do so prior to entering into an agreement under division (B) of this section.

(4) If pursuant to division (D)(3) of this section a district board opts to delay levying an additional tax until the district becomes eligible for state assistance, it shall submit the question of levying that tax to the district electors as follows:

(a) In accordance with section 3318.06 of the Revised Code if it will also be necessary pursuant to division (E) of this section to submit a proposal for approval of a bond issue;

(b) In accordance with section 3318.361 of the Revised Code if it is not necessary to also submit a proposal for approval of a bond issue pursuant to division (E) of this section.

(5) No state assistance under sections 3318.01 to 3318.20 of the Revised Code shall be released until a school district board that adopts and certifies a resolution under this division either has levied the additional tax or has earmarked the proceeds of a tax as specified in division (D) of this section.

Any amount required for maintenance under division (D)(2) of this section shall be deposited into a separate fund as specified in division (B) of section 3318.05 of the Revised Code.

(E)(1) If the school district becomes eligible for state assistance under sections 3318.01 to 3318.20 of the Revised Code based on its percentile ranking as determined under division (B) of this section, the commission shall conduct a new assessment of the school district's classroom facilities needs and shall recalculate the basic project cost based on this new assessment. The basic project cost recalculated under this division shall include the amount of expenditures made by the school district board under division (D)(1) of this section. The commission shall then recalculate the school district's portion of the new basic project cost, which shall be the percentage of the original basic project cost assigned to the school district as its portion under division (C) of this section. The commission shall deduct the expenditure of school district moneys made under division (D)(1) of this section from the school district's portion of the basic project cost as recalculated under this division. If the amount of school district resources applied by the school district board to the school district's portion of the basic project cost under this section is less than the total amount of such portion as recalculated under this division, the school district board by a

majority vote of all of its members shall, if it desires to seek state assistance under sections 3318.01 to 3318.20 of the Revised Code, adopt a resolution as specified in section 3318.06 of the Revised Code to submit to the electors of the school district the question of approval of a bond issue in order to pay any additional amount of school district portion required for state assistance. Any tax levy approved under division (D) of this section satisfies the requirements to levy the additional tax under section 3318.06 of the Revised Code.

(2) If the amount of school district resources applied by the school district board to the school district's portion of the basic project cost under this section is more than the total amount of such portion as recalculated under this division, within one year after the school district's portion is recalculated under division (E)(1) of this section the commission may grant to the school district the difference between the two calculated portions, but at no time shall the commission expend any state funds on a project in an amount greater than the state's portion of the basic project cost as recalculated under this division.

Any reimbursement under this division shall be only for local resources the school district has applied toward construction cost expenditures for the classroom facilities approved by the commission, which shall not include any financing costs associated with that construction.

The school district board shall use any moneys reimbursed to the district under this division to pay off any debt service the district owes for classroom facilities constructed under its project under this section before such moneys are applied to any other purpose.

Sec. 3318.40. (A)(1) Sections 3318.40 to 3318.45 of the Revised Code apply only to joint vocational school districts.

(2) As used in sections 3318.40 to 3318.45 of the Revised Code:

(a) "Ohio school facilities commission," "classroom facilities," "project," and "basic project cost" have the same meanings as in section 3318.01 of the Revised Code.

(b) "Acquisition of classroom facilities" means constructing, reconstructing, repairing, or making additions to classroom facilities.

(B) There is hereby established the vocational school facilities assistance program. Under the program, the Ohio school facilities commission shall provide assistance to joint vocational school districts for the acquisition of classroom facilities suitable to the vocational education programs of the districts in accordance with sections 3318.40 to 3318.45 of the Revised Code. For purposes of the program, beginning July 1, 2003, the commission annually may set aside up to two per cent of the aggregate

amount appropriated to it for classroom facilities assistance projects in the education facilities trust fund, established under section 183.26 of the Revised Code; the public school building fund, established under section 3318.15 of the Revised Code; and the school building program assistance fund, established under section 3318.25 of the Revised Code.

(C) The commission shall not provide assistance for any distinct part of a project under sections 3318.40 to 3318.45 of the Revised Code that when completed will be used exclusively for an adult education program or exclusively for operation of a driver training school for instruction leading to the issuance of a commercial driver's license under Chapter 4506. of the Revised Code, except for life safety items and basic building components necessary for complete and continuous construction or renovation of a classroom facility as determined by the commission.

(D) The commission shall not provide assistance under sections 3318.40 to 3318.45 of the Revised Code to acquire classroom facilities for vocational educational instruction at a location under the control of a school district that is a member of a joint vocational school district. Any assistance to acquire classroom facilities for vocational educational instruction at such location shall be provided to the school district that is a member of the joint vocational school district through other provisions of this chapter when that member school district is eligible for assistance under those provisions.

(E) By September 1, 2003, the commission shall assess the classroom facilities needs of at least five joint vocational school districts, according to the order of priority prescribed in division (B) of section 3318.42 of the Revised Code, and based on the results of those assessments shall determine the extent to which amendments to the specifications adopted under section 3318.311 of the Revised Code are warranted. The commission, thereafter, may amend the specifications as provided in that section.

(F) After the commission has conducted the assessments prescribed in division (E) of this section, the commission shall establish, by rule adopted in accordance with section 111.15 of the Revised Code, guidelines for the commission to use in deciding whether to waive compliance with the design specifications adopted under section 3318.311 of the Revised Code when determining the number of facilities and the basic project cost of projects as prescribed in division (A)(1)(a) of section 3318.41 of the Revised Code. The guidelines shall address the following situations:

(1) Under what circumstances, if any, particular classroom facilities are adequate to meet the needs of the school district even though the facilities do not comply with the specifications adopted under section 3318.311 of the Revised Code;

(2) Under what circumstances, if any, particular classroom facilities will be renovated or repaired rather than replaced by construction of new facilities.

Sec. 3318.41. (A)(1) The Ohio school facilities commission annually shall assess the classroom facilities needs of the number of joint vocational school districts that the commission reasonably expects to be able to provide assistance to in a fiscal year, based on the amount set aside for that fiscal year under division (B) of section 3318.40 of the Revised Code and the order of priority prescribed in division (B) of section 3318.42 of the Revised Code, except that in fiscal year 2004 the commission shall conduct at least the five assessments prescribed in division (E) of section 3318.40 of the Revised Code.

Upon conducting an assessment of the classroom facilities needs of a school district, the commission shall make a determination of all of the following:

(a) The number of classroom facilities to be included in a project, including classroom facilities authorized by a bond issue described in section 3318.033 of the Revised Code, and the basic project cost of acquiring the classroom facilities included in the project. The number of facilities and basic project cost shall be determined in accordance with the specifications adopted under section 3318.311 of the Revised Code except to the extent that compliance with such specifications is waived by the commission pursuant to the rule of the commission adopted under division (F) of section 3318.40 of the Revised Code.

(b) The school district's portion of the basic project cost as determined under division (C) of section 3318.42 of the Revised Code;

(c) The remaining portion of the basic project cost that shall be supplied by the state;

(d) The amount of the state's portion of the basic project cost to be encumbered in accordance with section 3318.11 of the Revised Code in the current and subsequent fiscal bienniums from funds set aside under division (B) of section 3318.40 of the Revised Code.

(2) Divisions (A), (C), and (D) of section 3318.03 of the Revised Code apply to any project under sections 3318.40 to 3318.45 of the Revised Code.

(B)(1) If the commission makes a determination under division (A) of this section in favor of the acquisition of classroom facilities for a project under sections 3318.40 to 3318.45 of the Revised Code, such project shall be conditionally approved. Such conditional approval shall be submitted to the controlling board for approval. The controlling board shall immediately approve or reject the commission's determination, conditional approval, the

amount of the state's portion of the basic project cost, and the amount of the state's portion of the basic project cost to be encumbered in the current fiscal biennium. In the event of approval by the controlling board, the commission shall certify the conditional approval to the joint vocational school district board of education and shall encumber the approved funds for the current fiscal year.

(2) No school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code shall have another such project conditionally approved until the expiration of twenty years after the school district's prior project was conditionally approved, unless the school district board demonstrates to the satisfaction of the commission that the school district has experienced since conditional approval of its prior project an exceptional increase in enrollment or program requirements significantly above the school district's design capacity under that prior project as determined by rule of the commission. Any rule adopted by the commission to implement this division shall be tailored to address the classroom facilities needs of joint vocational school districts.

(C) In addition to generating the amount of the school district's portion of the basic project cost as determined under division (C) of section 3318.42 of the Revised Code, in order for a school district to receive assistance under sections 3318.40 to 3318.45 of the Revised Code, the school district board shall set aside school district moneys for the maintenance of the classroom facilities included in the school district's project in the amount and manner prescribed in section 3318.43 of the Revised Code.

(D)(1) The conditional approval for a project certified under division (B)(1) of this section shall lapse and the amount reserved and encumbered for such project shall be released unless both of the following conditions are satisfied:

(a) Within one hundred twenty days following the date of certification of the conditional approval to the joint vocational school district board, the school district board accepts the conditional approval and certifies to the commission the school district board's plan to generate the school district's portion of the basic project cost, as determined under division (C) of section 3318.42 of the Revised Code, and to set aside moneys for maintenance of the classroom facilities acquired under the project, as prescribed in section 3318.43 of the Revised Code.

(b) Within one year following the date of certification of the conditional approval to the school district board, the electors of the school district vote favorably on any ballot measures proposed by the school district board to generate the school district's portion of the basic project cost.

(2) If the school district board or electors fail to satisfy the conditions prescribed in division (D)(1) of this section and the amount reserved and encumbered for the school district's project is released, the school district shall be given first priority over other joint vocational school districts for project funding under sections 3318.40 to 3318.45 of the Revised Code as such funds become available.

(E) If the conditions prescribed in division (D)(1) of this section are satisfied, the commission and the school district board shall enter into an agreement as prescribed in section 3318.08 of the Revised Code and shall proceed with the development of plans, cost estimates, designs, drawings, and specifications as prescribed in section 3318.091 of the Revised Code.

(F) Costs in excess of those approved by the commission under section 3318.091 of the Revised Code shall be payable only as provided in sections 3318.042 and 3318.083 of the Revised Code.

(G) Advertisement for bids and the award of contracts for construction of any project under sections 3318.40 to 3318.45 of the Revised Code shall be conducted in accordance with section 3318.10 of the Revised Code.

(H) The state funds reserved and encumbered and the funds provided by the school district to pay the basic project cost of a project under sections 3318.40 to 3318.45 of the Revised Code shall be spent simultaneously in proportion to the state's and the school district's respective portions of that basic project cost.

(I) Sections 3318.13, 3318.14, and 3318.16 of the Revised Code apply to projects under sections 3318.40 to 3318.45 of the Revised Code.

Sec. 3318.42. (A) Not later than the sixty-first day after the effective date of this section, and subsequently not later than the sixty-first day after the first day of each ensuing fiscal year, the department of education shall do all of the following:

(1) Calculate the valuation per pupil of each joint vocational school district according to the following formula:

The school district's average taxable value divided by the school district's formula ADM reported under section 3317.03 of the Revised Code for the previous fiscal year.

For purposes of this calculation:

(a) "Average taxable value" means the average of the amounts certified for a school district in the second, third, and fourth preceding tax years under divisions (A)(1) and (2) of section 3317.021 of the Revised Code.

(b) "Formula ADM" has the same meaning as defined in section 3317.02 of the Revised Code.

(2) Calculate for each school district the three-year average of the

valuations per pupil calculated for the school district for the current and two preceding fiscal years;

(3) Rank all joint vocational school districts in order from the school district with the lowest three-year average valuation per pupil to the school district with the highest three-year average valuation per pupil;

(4) Divide the ranking under division (A)(3) of this section into percentiles with the first percentile containing the one per cent of school districts having the lowest three-year average valuations per pupil and the one-hundredth percentile containing the one per cent of school districts having the highest three-year average valuations per pupil;

(5) Certify the information described in divisions (A)(1) to (4) of this section to the Ohio school facilities commission.

(B) The commission annually shall select school districts for assistance under sections 3318.40 to 3318.45 of the Revised Code in the order of the school districts' three-year average valuations per pupil such that the school district with the lowest three-year average valuation per pupil shall be given the highest priority for assistance.

(C) Each joint vocational school district's portion of the basic project cost of the school district's project under sections 3318.40 to 3318.45 of the Revised Code shall be one per cent times the percentile in which the district ranks, except that no school district's portion shall be less than twenty-five per cent or greater than ninety-five per cent of the basic project cost.

Sec. 3318.43. Each year for twenty-three successive years after the commencement of a joint vocational school district's project under sections 3318.40 to 3318.45 of the Revised Code, the board of education of that school district shall deposit into a separate maintenance account or into the school district's capital and maintenance fund established under section 3315.18 of the Revised Code, school district moneys dedicated to maintenance of the classroom facilities acquired under sections 3318.40 to 3318.45 of the Revised Code in an amount equal to one and one-half of one per cent of the current insurance value of the classroom facilities acquired under the project, which value shall be subject to the approval of the Ohio school facilities commission.

Sec. 3318.44. (A) A joint vocational school district board of education may generate the school district's portion of the basic project cost of its project under sections 3318.40 to 3318.45 of the Revised Code using any combination of the following means if lawfully employed for the acquisition of classroom facilities:

(1) The issuance of securities in accordance with Chapter 133. and section 3311.20 of the Revised Code;

(2) Local donated contributions as authorized under section 3318.084 of the Revised Code;

(3) A levy for permanent improvements under section 3311.21 or 5705.21 of the Revised Code;

(4) Bonds issued pursuant to division (B) of this section.

(B) By resolution adopted by a majority of all its members, a school district board in order to pay all or part of the school district's portion of its basic project cost may apply the proceeds of a tax levied under section 5705.21 of the Revised Code to general ongoing permanent improvements if the proceeds of that levy lawfully may be used for general construction, renovation, repair, or maintenance of classroom facilities to leverage bonds adequate to pay all or part of the school district portion of the basic project cost of the school district's project under sections 3318.40 to 3318.45 of the Revised Code or to generate an amount equivalent to all or part of the amount required under section 3318.43 of the Revised Code to be used for maintenance of classroom facilities acquired under the project. Bonds issued under this division shall be Chapter 133. securities, but the issuance of the bonds shall not be subject to a vote of the electors of the school district as long as the tax proceeds earmarked for payment of the service charges on the bonds may lawfully be used for that purpose.

No state moneys shall be released for a project to which this division applies until the proceeds of any bonds issued under this division that are dedicated for payment of the school district's portion of the basic project cost are first deposited into the school district's project construction fund.

(C) A school district board of education may adopt a resolution proposing that any of the following questions be combined with a question specified in section 3318.45 of the Revised Code:

(1) A bond issue question under section 133.18 of the Revised Code;

(2) A tax levy question under section 3311.21 of the Revised Code;

(3) A tax levy question under section 5705.21 of the Revised Code.

Any question described in divisions (C)(1) to (3) of this section that is combined with a question proposed under section 3318.45 of the Revised Code shall be for the purpose of either paying for any permanent improvement, as defined in section 133.01 of the Revised Code, or generating operating revenue specifically for the facilities acquired under the school district's project under Chapter 3318. of the Revised Code or for both to the extent such purposes are permitted by the sections of law under which each is proposed.

(D) The board of education of a joint vocational school district that receives assistance under this section may enter into an agreement for joint

issuance of bonds as provided for in section 3318.085 of the Revised Code.

Sec. 3318.45. (A) Unless division (B) of section 3318.44 of the Revised Code applies, if a joint vocational school district board of education proposes to issue securities to generate all or part of the school district's portion of the basic project cost of the school district's project under sections 3318.40 to 3318.45 of the Revised Code, the school district board shall adopt a resolution in accordance with Chapter 133. and section 3311.20 of the Revised Code. Unless the school district board seeks authority to issue securities in more than one series, the school district board shall adopt the form of the ballot prescribed in section 133.18 of the Revised Code.

(B) If authority is sought to issue bonds in more than one series, the form of the ballot shall be:

"Shall bonds be issued by the (here insert name of joint vocational school district) joint vocational school district to pay the local share of school construction under the State of Ohio Joint Vocational School Facilities Assistance Program in the total principal amount of (total principal amount of the bond issue), to be issued in (number of series) series, each series to be repaid annually over not more than (maximum number of years over which the principal of each series may be paid) years, and an annual levy of property taxes be made outside the ten-mill limitation to pay the annual debt charges on the bonds and on any notes issued in anticipation of the bonds, at a rate estimated by the county auditor to average over the repayment period of each series as follows: [insert the following for each series: "the series, in a principal amount of dollars, requiring mills per dollar of tax valuation, which amount to (rate expressed in cents or dollars and cents, such as "36 cents" or "\$1.41") for each one hundred dollars in tax valuation, commencing in and first payable in"]?

	<u>For the bond issue</u>	"
	<u>Against the bond issue</u>	

(C) If it is necessary for the school district to acquire a site for the classroom facilities to be acquired pursuant to sections 3318.40 to 3318.45 of the Revised Code, the district board may propose either to issue bonds of the board or to levy a tax to pay for the acquisition of such site and may combine the question of doing so with the question specified by reference in division (A) of this section or the question specified in division (B) of this section. Bonds issued under this division for the purpose of acquiring a site are a general obligation of the school district and are Chapter 133. securities.

The form of that portion of the ballot to include the question of either issuing bonds or levying a tax for site acquisition purposes shall be one of the following:

(1) "Shall bonds be issued by the (here insert name of the joint vocational school district) joint vocational school district to pay costs of acquiring a site for classroom facilities under the State of Ohio Joint Vocational School Facilities Assistance Program in the principal amount of (here insert principal amount of the bond issue), to be repaid annually over a maximum period of (here insert maximum number of years over which the principal of the bonds may be paid) years, and an annual levy of property taxes be made outside the ten-mill limitation, estimated by the county auditor to average over the repayment period of the bond issue (here insert number of mills) mills for each one dollar of tax valuation, which amount to (here insert rate expressed in cents or dollars and cents, such as "thirty-six cents" or "\$0.36") for each one hundred dollars of valuation to pay the annual debt charges on the bonds and to pay debt charges on any notes issued in anticipation of the bonds?"

(2) "Shall an additional levy of taxes outside the ten-mill limitation be made for the benefit of the (here insert name of the joint vocational school district) joint vocational school district for the purpose of acquiring a site for classroom facilities in the sum of (here insert annual amount the levy is to produce) estimated by the county auditor to average (here insert number of mills) mills for each one hundred dollars of valuation, which amount to (here insert rate expressed in cents or dollars and cents, such as "thirty-six cents" or "\$0.36") for each one hundred dollars of valuation, for a period of (here insert number of years the millage is to be imposed) years?"

Where it is necessary to combine the question of issuing bonds of the joint vocational school district as described in division (A) of this section with the question of issuing bonds of the school district for acquisition of a site, the question specified in that division to be voted on shall be "For the bond issues" and "Against the bond issues."

Where it is necessary to combine the question of issuing bonds of the joint vocational school district as described in division (A) of this section with the question of levying a tax for the acquisition of a site, the question specified in that division to be voted on shall be "For the bond issue and the tax levy" and "Against the bond issue and the tax levy."

(D) Where the school district board chooses to combine a question specified in this section with any of the additional questions described in division (C) of section 3318.44 of the Revised Code, the question to be

voted on shall be "For the bond issues and the tax levies" and "Against the bond issues and the tax levies."

(E) If a majority of those voting upon a proposition prescribed in this section which includes the question of issuing bonds vote in favor of that issuance and if the agreement prescribed in section 3318.08 of the Revised Code has been entered into, the school district board may proceed under Chapter 133. of the Revised Code with the issuance of bonds or bond anticipation notes in accordance with the terms of the agreement.

Sec. 3318.46. By rule adopted in accordance with section 111.15 of the Revised Code, the Ohio school facilities commission shall establish a program whereby the board of education of any joint vocational school district may enter into an agreement with the commission under which the board may proceed with the new construction or major repairs of a part of the school district's classroom facilities needs, as determined under sections 3318.40 to 3318.45 of the Revised Code, through the expenditure of local resources prior to the school district's eligibility for state assistance under sections 3318.40 to 3318.45 of the Revised Code. The program shall be structured in a manner similar to the program established under section 3318.36 of the Revised Code. The program shall be operational on July 1, 2004.

Sec. 3354.16. (A) When the board of trustees of a community college district has by resolution determined to let by contract the work of improvements pursuant to the official plan of such district, contracts in amounts exceeding a dollar amount set by the board, which dollar amount shall not exceed ~~fifteen~~ fifty thousand dollars, shall be advertised after notices calling for bids have been published once a week for three consecutive weeks, in at least one newspaper of general circulation within the community college district wherein the work is to be done. Subject to section 3354.10 of the Revised Code, the board of trustees of the district may let such contract to the lowest responsive and responsible bidder, in accordance with section 9.312 of the Revised Code, who meets the requirements of section 153.54 of the Revised Code. Such contract shall be in writing and shall be accompanied by or shall refer to plans and specifications for the work to be done. Such contract shall be approved by the board of trustees and signed by the president of the board and by the contractor.

(B) On ~~January 1, 1996,~~ and the first day of January of every even-numbered year ~~thereafter~~, the chancellor of the board of regents shall adjust the ~~fifteen~~ fifty thousand dollar contract limit set forth in division (A) of this section, as adjusted in any previous year pursuant to this division.

The chancellor shall adjust the limit according to the average increase or decrease for each of the two years immediately preceding the adjustment as set forth in the United States department of commerce, bureau of the census implicit price deflator for construction, provided that no increase or decrease for any year shall exceed three per cent of the contract limit in existence at the time of the adjustment. Notwithstanding division (A) of this section, the limit adjusted under this division shall be used thereafter in lieu of the limit in division (A) of this section.

(C) Before entering into an improvement pursuant to division (A) of this section, the board of trustees of a community college district shall require separate and distinct proposals to be made for furnishing materials or doing work on the improvement, or both, in the board's discretion, for each separate and distinct branch or class of work entering into the improvement. The board of trustees also may require a single, combined proposal for the entire project for materials or doing work, or both, in the board's discretion, that includes each separate and distinct branch or class of work entering into the improvement. The board of trustees need not solicit separate proposals for a branch or class of work for an improvement if the estimate cost for that branch or class of work is less than five thousand dollars.

(D) When more than one branch or class of work is required, no contract for the entire job, or for a greater portion thereof than is embraced in one such branch or class of work shall be awarded, unless the separate bids do not cover all the work and materials required or the bids for the whole or for two or more kinds of work or materials are lower than the separate bids in the aggregate. The board of trustees need not award separate contracts for a branch or class of work entering into an improvement if the estimated cost for that branch or class of work is less than five thousand dollars.

Sec. 3355.12. (A) When the managing authority of the university branch district has determined to let by contract the work of improvements, contracts in amounts exceeding a dollar amount set by the managing authority, which dollar amount shall not exceed ~~fifteen~~ fifty thousand dollars, shall be advertised after notices calling for bids have been published once a week for three consecutive weeks, in at least one newspaper of general circulation within the university branch district wherein the work is to be done. Such managing authority may let such contract to the lowest responsive and responsible bidder, in accordance with section 9.312 of the Revised Code, who meets the requirements of section 153.54 of the Revised Code. Such contract shall be in writing and shall be accompanied by or shall refer to plans and specifications for the work to be done. Such contract shall

be approved by the managing authority of the university branch district and signed by the ~~chairman~~ chairperson or ~~vice-chairman~~ vice-chairperson of the managing authority and by the contractor.

(B) On ~~January 1, 1996,~~ and the first day of January of every even-numbered year ~~thereafter~~, the chancellor of the board of regents shall adjust the ~~fifteen~~ fifty thousand dollar contract limit set forth in division (A) of this section, as adjusted in any previous year pursuant to this division. The chancellor shall adjust the limit according to the average increase or decrease for each of the two years immediately preceding the adjustment as set forth in the United States department of commerce, bureau of the census implicit price deflator for construction, provided that no increase or decrease for any year shall exceed three per cent of the contract limit in existence at the time of the adjustment. Notwithstanding division (A) of this section, the limit adjusted under this division shall be used thereafter in lieu of the limit in division (A) of this section.

(C) Before entering into an improvement pursuant to division (A) of this section, the managing authority of the university branch district shall require separate and distinct proposals to be made for furnishing materials or doing work on the improvement, or both, in the board's discretion, for each separate and distinct branch or class of work entering into the improvement. The managing authority also may require a single, combined proposal for the entire project for materials or doing work, or both, in the board's discretion, that includes each separate and distinct branch or class of work entering into the improvement. The managing authority need not solicit separate proposals for a branch or class of work for an improvement if the estimate cost for that branch or class of work is less than five thousand dollars.

(D) When more than one branch or class of work is required, no contract for the entire job, or for a greater portion thereof than is embraced in one such branch or class of work shall be awarded, unless the separate bids do not cover all the work and materials required or the bids for the whole or for two or more kinds of work or materials are lower than the separate bids in the aggregate. The managing authority need not award separate contracts for a branch or class of work entering into an improvement if the estimated cost for that branch or class of work is less than five thousand dollars.

Sec. 3357.16. (A) When the board of trustees of a technical college district has by resolution determined to let by contract the work of improvements pursuant to the official plan of such district, contracts in amounts exceeding a dollar amount set by the board, which dollar amount

shall not exceed ~~fifteen~~ fifty thousand dollars, shall be advertised after notice calling for bids has been published once a week for three consecutive weeks, in at least one newspaper of general circulation within the technical college district where the work is to be done. The board of trustees of the technical college district may let such contract to the lowest responsive and responsible bidder, in accordance with section 9.312 of the Revised Code, who meets the requirements of section 153.54 of the Revised Code. Such contract shall be in writing and shall be accompanied by or shall refer to plans and specifications for the work to be done. Such contract shall be approved by the board of trustees and signed by the president of the board and by the contractor.

(B) On ~~January 1, 1996, and~~ the first day of January of every even-numbered year ~~thereafter~~, the chancellor of the board of regents shall adjust the ~~fifteen~~ fifty thousand dollar contract limit set forth in division (A) of this section, as adjusted in any previous year pursuant to this division. The chancellor shall adjust the limit according to the average increase or decrease for each of the two years immediately preceding the adjustment as set forth in the United States department of commerce, bureau of the census implicit price deflator for construction, provided that no increase or decrease for any year shall exceed three per cent of the contract limit in existence at the time of the adjustment. Notwithstanding division (A) of this section, the limit adjusted under this division shall be used thereafter in lieu of the limit in division (A) of this section.

(C) Before entering into an improvement pursuant to division (A) of this section, the board of trustees of a technical college district shall require separate and distinct proposals to be made for furnishing materials or doing work on the improvement, or both, in the board's discretion, for each separate and distinct branch or class of work entering into the improvement. The board of trustees also may require a single, combined proposal for the entire project for materials or doing work, or both, in the board's discretion, that includes each separate and distinct branch or class of work entering into the improvement. The board of trustees need not solicit separate proposals for a branch or class of work for an improvement if the estimate cost for that branch or class of work is less than five thousand dollars.

(D) When more than one branch or class of work is required, no contract for the entire job, or for a greater portion thereof than is embraced in one such branch or class of work shall be awarded, unless the separate bids do not cover all the work and materials required or the bids for the whole or for two or more kinds of work or materials are lower than the separate bids in the aggregate. The board of trustees need not award separate

contracts for a branch or class of work entering into an improvement if the estimated cost for that branch or class of work is less than five thousand dollars.

Sec. 3383.01. As used in this chapter:

(A) "Arts" means any of the following:

(1) Visual, musical, dramatic, graphic, design, and other arts, including, but not limited to, architecture, dance, literature, motion pictures, music, painting, photography, sculpture, and theater, and the provision of training or education in these arts;

(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 described in division (A)(1) of this section 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 or a local 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) "Arts project" means all or any portion of an Ohio arts facility for which the general assembly has specifically authorized the spending of money, or made an appropriation, pursuant to division (D)(3) or (E) of section 3383.07 of the Revised Code.

(D) "Cooperative contract" means a contract between the Ohio arts and sports facilities commission and an arts organization providing the terms and conditions of the cooperative use of an Ohio arts facility.

(E) "Costs of operation" means amounts required to manage an Ohio arts facility that are incurred following the completion of construction of its arts project, provided that both of the following apply:

(1) Those amounts either:

(a) Have been committed to a fund dedicated to that purpose;

(b) Equal the principal of any endowment fund, the income from which is dedicated to that purpose.

(2) The commission and the arts organization have executed an agreement with respect to either of those funds.

(F) "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.

(G) "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, any other political subdivision or special district in this state established by or pursuant to law, or any combination of these entities; 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.

(H) "Local contributions" means the value of an asset provided by or on behalf of an arts organization from sources other than the state, the value and nature of which shall be approved by the Ohio arts and sports facilities commission, in its sole discretion. "Local contributions" may include the value of the site where an arts project is to be constructed. All "local contributions," except a contribution attributable to such a site, shall be for the costs of construction of an arts project or the costs of operation of an arts facility.

(I) "Local historical facility" means a site or facility, other than a state historical 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 an arts organization, provided the facility meets the requirements of division (K)(2)(b) of this section, is managed by or pursuant to a contract with the Ohio arts and sports facilities commission, and is used for or in connection with the activities of the commission, including the presentation or making available of arts to the public.

(J) "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.

(K) "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 both of the following apply:

(a) The construction of an arts project related to the facility was authorized or funded by the general assembly pursuant to division (D)(3) of section 3383.07 of the Revised Code and proceeds of state bonds are used for costs of the arts project.

(b) The facility is managed directly by, or is subject to a cooperative or management contract with, the Ohio arts and sports facilities commission, and is used for or in connection with the activities of the commission, including the presentation or making available of arts to the public and the provision of training or education in the arts. A cooperative or management contract shall be for a term not less than the time remaining to the date of payment or provision for payment of any state bonds issued to pay the costs of the arts project, as determined by the director of budget and management and certified by the director to the Ohio arts and sports facilities commission and to the Ohio building authority.

(3) A state historical facility or a local historical facility.

(L) "State agency" means the state or any of its branches, officers, boards, commissions, authorities, departments, divisions, or other units or agencies.

(M) "Construction" includes acquisition, including acquisition by lease-purchase, demolition, reconstruction, alteration, renovation, remodeling, enlargement, improvement, site improvements, and related equipping and furnishing.

(N) "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 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 is subject to a cooperative or management contract with the Ohio arts and sports facilities commission and is used for or in connection with the activities of the commission, including the presentation or making available of arts to the public.

(O) "Ohio sports facility" means all or a portion of a stadium, arena, or other capital facility in this state, 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 a city or region of the state, 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. 3383.02. (A) There is hereby created the Ohio arts and sports facilities commission. Notwithstanding any provision to the contrary contained in Chapter 152. of the Revised Code, the commission shall engage in and provide for the development, performance, and presentation or making available of the arts and professional sports and athletics to the public in this state, and the provision of training or education in the arts, by the exercise of its powers under this chapter, including the provision, operation, management, and cooperative use of Ohio arts facilities and Ohio sports facilities. The commission is a body corporate and politic, an agency of state government and an instrumentality of the state, performing essential governmental functions of this state. The carrying out of the purposes and the exercise by the commission of its powers conferred by this chapter are essential public functions and public purposes of the state and of state government. The commission may, in its own name, sue and be sued, enter into contracts, and perform all the powers and duties given to it by this chapter ~~but; however,~~ it does not have and shall not exercise the power of eminent domain.

(B) The commission shall consist of ten members, seven of whom shall be voting members and three of whom shall be nonvoting members. The seven voting members shall be appointed by the governor, with the advice and consent of the senate, from different geographical regions of the state. In addition, one of the voting members shall represent the state architect. Not more than four of the members appointed by the governor shall be affiliated with the same political party. The nonvoting members shall be the staff director of the Ohio arts council, a member of the senate appointed by the president of the senate, and a member of the house of representatives appointed by the speaker of the house.

(C) Of the five initial appointments made by the governor, one shall be for a term expiring December 31, 1989, two shall be for terms expiring December 31, 1990, and two shall be for terms expiring December 31, 1991. Of the initial appointments of the sixth and seventh voting members appointed by the governor as a result of this amendment, one shall be for a term expiring December 31, 2003, and one shall be for a term expiring December 31, 2004. Thereafter, each such term shall be for three years, commencing on the first day of January and ending on the thirty-first day of December. Each appointment by the president of the senate and by the speaker of the house of representatives shall be for the balance of the then legislative biennium. 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 expiration 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 the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(D) Members of the commission shall serve without compensation.

(E) Organizational meetings of the commission shall be held at the first meeting of each calendar year. At each organizational meeting, the commission shall elect from among its voting members a chairperson, a vice-chairperson, and a secretary-treasurer, who shall serve until the next annual meeting. The commission shall adopt rules pursuant to section 111.15 of the Revised Code for the conduct of its internal business and shall keep a journal of its proceedings.

(F) Four voting members of the commission constitute a quorum, and the affirmative vote of four members is necessary for approval of any action taken by the commission. A vacancy in the membership of the commission does not impair a quorum from exercising all the rights and performing all the duties of the commission. Meetings of the commission may be held anywhere in the state, and shall be held in compliance with section 121.22 of the Revised Code.

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

(H) The commission shall file an annual report of its activities and finances with the governor, director of budget and management, speaker of the house of representatives, president of the senate, and chairpersons of the

house and senate finance committees.

(I) There is hereby established in the state treasury the Ohio arts and sports facilities commission administration fund. All revenues of the commission shall be credited to that fund and to any accounts created in the fund with the commission's approval. All expenses of the commission, including reimbursement of, or payment to, any other fund or any governmental agency for advances made or services rendered to or on behalf of the commission, shall be paid from the Ohio arts and sports facilities commission administration fund as determined by or pursuant to directions of the commission. All investment earnings of the administration fund shall be credited to the fund and shall be allocated among any accounts created in the fund in the manner determined by the commission.

(J) Title to all real property and lesser interests in real property acquired by the commission, including leasehold and other interests, pursuant to this chapter shall be taken in the name of the state and shall be held for the use and benefit of the commission. The commission shall not mortgage such real property and interests in real property. Title to other property and interests in it acquired by the commission pursuant to this chapter shall be taken in its name.

Sec. 3383.03. The Ohio arts and sports facilities commission shall do the following:

(A) From time to time, determine the need for arts projects, Ohio arts facilities, and Ohio sports facilities, report to the governor and the general assembly on the need for any additional arts projects, Ohio arts facilities, and Ohio sports facilities. This division does not apply to state historical facilities.

(B) Have jurisdiction, control, and possession of, and supervision over the use and disposition of, all property, rights, licenses, money, contracts, accounts, liens, books, records, and other property rights and interests conveyed, delivered, transferred, or assigned to it;

(C) Use, and provide for the use of, Ohio arts facilities and Ohio sports facilities for the commission's purposes and functions, and conduct reviews necessary to ensure that uses of those facilities are consistent with statewide interests and the commission's purposes, including the presentation or making available of the arts and professional athletics and sports to the public in this state and the provision of training or education in the arts;

(D) Hold a meeting, including the organizational meeting required by division (E) of section 3383.02 of the Revised Code, at least quarterly to conduct its business;

(E) Cooperate with any governmental agency or arts organization that

provides services in, to, or for an Ohio arts facility, and cooperate with any governmental agency or nonprofit corporation for the provision or operation of any Ohio sports facilities.

Sec. 3385.01. As used in this chapter:

(A) "Loan" and "on loan" mean a deposit of property not accompanied by a transfer of title to the property.

(B) "Museum" means any institution located in this state that is operated by a governmental agency or nonprofit corporation primarily for educational, scientific, aesthetic, historic, or preservation purposes and that acquires, owns, cares for, exhibits, studies, archives, or catalogs property. "Museum" includes, but is not limited to, historical societies, historic sites or landmarks, parks, monuments, libraries, arboreta, and zoos.

(C) "Property" means any tangible, nonliving object in a museum's possession that has intrinsic historic, artistic, scientific, educational, or cultural value.

Sec. 3385.02. (A) Property on loan to a museum other than pursuant to a written agreement shall be considered to be abandoned, and title to the property shall vest in the museum, free from all claims of the owner and of all persons claiming under the owner, if all of the following apply:

(1) The property has been held by the museum within the state for at least seven years and, during that time, it remained unclaimed.

(2) The museum gave notice of the abandonment of the property in accordance with section 3385.03 of the Revised Code.

(3) No written assertion of title to the property was made by the owner of the property within ninety days after the date the notice was mailed or, if applicable, within ninety days after the date of the last published notice.

(B) With respect to property on loan to a museum pursuant to a written agreement, the loan shall be considered to be terminated, and title to the property shall vest in the museum, free from all claims of the owner and of all persons claiming under the owner, if all of the following apply:

(1) If the loan was for an indefinite term, the museum has held the property for at least seven years. If the loan was for a specified term, that term has expired.

(2) The museum gave notice of the termination of the loan in accordance with section 3385.03 of the Revised Code.

(3) No written assertion of title to the property was made by the owner of the property within six months after the date the notice was mailed or, if applicable, within six months after the date of the last published notice.

Sec. 3385.03. (A) A museum shall send notice of abandonment of property or termination of a loan by certified mail, return receipt requested,

to the owner of the property at the owner's last known address as shown by the records of the museum. If the museum has no address on record, or the museum does not receive written proof of receipt of the notice within thirty days after the date the notice was mailed, the museum shall publish notice, at least twice over a sixty-day period, in a newspaper of general circulation in both the county in which the museum is located and the county in which the last known address of the owner, if available, is located.

For purposes of this division, "records of the museum" means documents created or held by the museum in its regular course of business.

(B) The mailed and published notices shall contain the following:

(1) The date of the notice;

(2) A general description of the property;

(3) The name and, if available, the last known address of the owner of the property;

(4) The approximate date the property was loaned to the museum;

(5) The name and address of the appropriate museum official to be contacted regarding the notice;

(6) For published notices, a request that anyone who may know the whereabouts of the owner of the property provide written notice to the museum;

(7) For published notices, the publication date of the last notice.

(C)(1) A notice of abandonment of property shall include a statement in substantially the following form:

"The (name of museum) hereby asserts title to the following property: (general description of property). If you claim ownership or other legal interest in this property, you must contact (name of museum) in writing, establish ownership of the property, and make arrangements to collect the property. If you fail to do so within ninety days, the property will be considered abandoned and will become property of (name of museum)."

(2) A notice of termination of a loan of property shall include a statement in substantially the following form:

"The records of (name of museum) indicate that you have property on loan to it. The (name of museum) hereby terminates the loan. If you desire to claim the property, you must contact the (name of museum) in writing, establish ownership of the property, and make arrangements to collect the property. If you fail to do so within six months, you will be considered to have waived any claim you may have had to the property."

(D) For purposes of this section, if a loan of property was made to a branch of the museum, the museum shall be considered to be located in the county in which the branch is located. Otherwise, the museum is considered

to be located in the county in which it has its principal place of business.

Sec. 3385.04. (A) Unless there is a written loan agreement to the contrary, a museum may apply conservation measures to property on loan to the museum without notice to the owner or the owner's permission, if such measures are necessary to protect the property on loan or other property in the custody of the museum or if the property on loan is a hazard to the health and safety of the museum staff or the public, and if either of the following applies:

(1) The museum attempts but is unable to notify the owner at the owner's last known address not later than three days before the date the museum intends to apply the conservation measures.

(2) The museum notifies the owner not later than three days before the date the museum intends to apply the conservation measures, the owner does not agree to those measures, and the owner does not terminate the loan and retrieve the property within three days after receipt of the notice.

(B) If a museum applies conservation measures in accordance with division (A) of this section or with the agreement of the owner, both of the following apply:

(1) The museum shall acquire a lien on the property in the amount of the expenses incurred by the museum, unless the agreement provides otherwise.

(2) The museum is not liable for injury to or loss of the property, if the museum did both of the following:

(a) Reasonably believed at the time the conservation measures were taken that the measures were necessary to protect the property on loan or other property in the custody of the museum, or that the property on loan was a hazard to the health and safety of the museum staff or the public;

(b) Exercised reasonable care in the choice and application of the conservation measures.

Sec. 3385.05. Upon accepting property on loan, a museum shall provide a written summary of the provisions of this chapter to the owner of the property.

Sec. 3385.06. The owner of any property on loan to a museum shall promptly notify the museum in writing of any change of the owner's address or change in ownership of the property.

Sec. 3385.07. Any property that, on or after the effective date of this section, is delivered to a museum or left on museum property, is not solicited by the museum, is from an unknown source, and might reasonably be assumed to have been intended as a gift to the museum, shall conclusively be presumed to be a gift to the museum, if there is no claim of ownership to the property within ninety days after the museum receives or

otherwise discovers the property.

Sec. 3385.08. The provisions of this chapter may be varied by written agreement of the parties.

Sec. 3385.09. (A) Property on loan to a museum shall not escheat to the state under any applicable escheat law, but shall pass to the museum under the provisions of this chapter.

(B) This chapter does not apply to property interests other than those specifically described in this chapter.

Sec. 3385.10. A museum that acquires title to property in accordance with this chapter passes good title when transferring that property with the intent to pass title.

Sec. 3519.04. Upon receipt of the verified copy of a proposed state law or constitutional amendment proposing the levy of any tax or involving a matter ~~which~~ that will necessitate the expenditure of any funds of the state or any political subdivision ~~thereof~~ of the state, the secretary of state shall request of the ~~tax commissioner~~ office of budget and management an estimate of any annual expenditure of public funds proposed and of the tax commissioner the annual yield of any proposed taxes. The office of budget and management, on receipt of a request for an estimate of the annual expenditure of public funds proposed, shall prepare the estimate and file it in the office of the secretary of state. The tax commissioner, on receipt of ~~such a request for an estimate of the annual yield of any proposed taxes,~~ shall prepare the estimate and file it in the office of the secretary of state. The secretary of state shall distribute copies of such estimate with the pamphlets prescribed in section 3519.19 of the Revised Code office of budget and management and the tax commissioner may issue a joint estimate if the proposed state law or constitutional amendment necessitates both the expenditure of public funds and a levy of any tax.

Sec. 3702.5210. The ~~Ohio~~ veterans' home operated under Chapter 5907. of the Revised Code that is located in Sandusky is not required to obtain a certificate of need to increase bed capacity in its Secrest-Giffin nursing home by not more than twenty-five long-term care beds prior to June 30, 1997.

Sec. 3702.5211. Notwithstanding sections 3702.51 to 3702.68 of the Revised Code, the ~~Ohio veteran's~~ veterans' home operated under Chapter 5907. of the Revised Code that is located in Sandusky, 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. 3702.5213. Notwithstanding sections 3702.51 to 3702.68 of the Revised Code, the ~~southern Ohio veterans~~ veterans' home operated under Chapter 5907. of the Revised Code that is located in Brown county is not required to obtain a certificate of need for the addition of up to one hundred sixty-eight additional nursing home beds to be licensed under Chapter 3721. of the Revised Code if the additional beds are placed in service prior to December 31, 2004.

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 and 3721.99 of the Revised Code:

(1)(a) "Home" means an institution, residence, or facility that provides, for a period of more than twenty-four hours, whether for a consideration or not, accommodations to three or more unrelated individuals who are dependent upon the services of others, including a nursing home, residential care facility, home for the aging, and ~~the Ohio a~~ a veterans' home operated under Chapter 5907. of the Revised Code.

(b) "Home" also means both of the following:

(i) Any facility that a person, as defined in section 3702.51 of the Revised Code, proposes for certification as a skilled nursing facility or nursing facility under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and for which a certificate of need, other than a certificate to recategorize hospital beds as described in section 3702.522 of the Revised Code or division (R)(7)(d) of the version of section 3702.51 of the Revised Code in effect immediately prior to April 20, 1995, has been granted to the person under sections 3702.51 to 3702.62 of the Revised Code after August 5, 1989;

(ii) A county home or district home that is or has been licensed as a residential care facility.

(c) "Home" does not mean any of the following:

(i) Except as provided in division (A)(1)(b) of this section, a public hospital or hospital as defined in section 3701.01 or 5122.01 of the Revised Code;

(ii) A residential facility for mentally ill persons as defined under section 5119.22 of the Revised Code;

(iii) A residential facility as defined in section 5123.19 of the Revised Code;

(iv) A habilitation center as defined in section 5123.041 of the Revised Code;

(v) A community alternative home as defined in section 3724.01 of the Revised Code;

(vi) An adult care facility as defined in section 3722.01 of the Revised

Code;

(vii) An alcohol or drug addiction program as defined in section 3793.01 of the Revised Code;

(viii) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;

(ix) A facility providing services under contract with the department of mental retardation and developmental disabilities under section 5123.18 of the Revised Code;

(x) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;

(xi) A facility, infirmary, or other entity that is operated 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 does not participate in the medicare program established under Title XVIII of the "Social Security Act" or the medical assistance program established under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," if on January 1, 1994, the facility, infirmary, or entity was providing care exclusively to members of the religious order;

(xii) A county home or district home that has never been licensed as a residential care facility.

(2) "Unrelated individual" means one who is not related to the owner or operator of a home or to the spouse of the owner or operator as a parent, grandparent, child, grandchild, brother, sister, niece, nephew, aunt, uncle, or as the child of an aunt or uncle.

(3) "Mental impairment" does not mean mental illness as defined in section 5122.01 of the Revised Code or mental retardation as defined in section 5123.01 of the Revised Code.

(4) "Skilled nursing care" means procedures that require technical skills and knowledge beyond those the untrained person possesses and that are commonly employed in providing for the physical, mental, and emotional needs of the ill or otherwise incapacitated. "Skilled nursing care" includes, but is not limited to, the following:

(a) Irrigations, catheterizations, application of dressings, and supervision of special diets;

(b) Objective observation of changes in the patient's condition as a means of analyzing and determining the nursing care required and the need for further medical diagnosis and treatment;

(c) Special procedures contributing to rehabilitation;

(d) Administration of medication by any method ordered by a physician,

such as hypodermically, rectally, or orally, including observation of the patient after receipt of the medication;

(e) Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration.

(5)(a) "Personal care services" means services including, but not limited to, the following:

(i) Assisting residents with activities of daily living;

(ii) Assisting residents with self-administration of medication, in accordance with rules adopted under section 3721.04 of the Revised Code;

(iii) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted under section 3721.04 of the Revised Code.

(b) "Personal care services" does not include "skilled nursing care" as defined in division (A)(4) of this section. A facility need not provide more than one of the services listed in division (A)(5)(a) of this section to be considered to be providing personal care services.

(6) "Nursing home" means a home used for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care and of individuals who require personal care services but not skilled nursing care. A nursing home is licensed to provide personal care services and skilled nursing care.

(7) "Residential care facility" means a home that provides either of the following:

(a) Accommodations for seventeen or more unrelated individuals and supervision and personal care services for three or more of those individuals who are dependent on the services of others by reason of age or physical or mental impairment;

(b) Accommodations for three or more unrelated individuals, supervision and personal care services for at least three of those individuals who are dependent on the services of others by reason of age or physical or mental impairment, and, to at least one of those individuals, any of the skilled nursing care authorized by section 3721.011 of the Revised Code.

(8) "Home for the aging" means a home that provides services as a residential care facility and a nursing home, except that the home provides its services only to individuals who are dependent on the services of others by reason of both age and physical or mental impairment.

The part or unit of a home for the aging that provides services only as a residential care facility is licensed as a residential care facility. The part or unit that may provide skilled nursing care beyond the extent authorized by section 3721.011 of the Revised Code is licensed as a nursing home.

(9) "County home" and "district home" mean a county home or district home operated under Chapter 5155. of the Revised Code.

(B) The public health council may further classify homes. For the purposes of this chapter, any residence, institution, hotel, congregate housing project, or similar facility that meets the definition of a home under this section is such a home regardless of how the facility holds itself out to the public.

(C) For purposes of this chapter, personal care services or skilled nursing care shall be considered to be provided by a facility if they are provided by a person employed by or associated with the facility or by another person pursuant to an agreement to which neither the resident who receives the services nor the resident's sponsor is a party.

(D) Nothing in division (A)(4) of this section shall be construed to permit skilled nursing care to be imposed on an individual who does not require skilled nursing care.

Nothing in division (A)(5) of this section shall be construed to permit personal care services to be imposed on an individual who is capable of performing the activity in question without assistance.

(E) Division (A)(1)(c)(xi) of this section does not prohibit a facility, infirmary, or other entity described in that division from seeking licensure under sections 3721.01 to 3721.09 of the Revised Code or certification under Title XVIII or XIX of the "Social Security Act." However, such a facility, infirmary, or entity that applies for licensure or certification must meet the requirements of those sections or titles and the rules adopted under them and obtain a certificate of need from the director of health under section 3702.52 of the Revised Code.

(F) Nothing in this chapter, or rules adopted pursuant to it, shall be construed as authorizing the supervision, regulation, or control of the spiritual care or treatment of residents or patients in any home who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination.

Sec. 3737.71. Each insurance company doing business in this state shall pay to the state in installments, at the time of making the payments required by section 5729.05 of the Revised Code, in addition to the taxes required to be paid by it, three-fourths of one per cent on the gross premium receipts derived from fire insurance and that portion of the premium reasonably allocable to insurance against the hazard of fire included in other coverages except life and sickness and accident insurance, after deducting return premiums paid and considerations received for reinsurances as shown by the annual statement of such company made pursuant to sections 3929.30,

3931.06, and 5729.02 of the Revised Code. The money received shall be paid into the state treasury to the credit of the state fire marshal's fund, which is hereby created. The fund shall be used for the maintenance and administration of the office of the fire marshal and ~~to defray the costs of operating~~ the Ohio fire academy established by section 3737.33 of the Revised Code. If the director of commerce certifies to the director of budget and management that the cash balance in the state fire marshal's fund is in excess of the amount needed to pay ongoing operating expenses, the director may use the excess amount to acquire by purchase, lease, or otherwise, real property or interests in real property to be used for the benefit of the office of the state fire marshal, or to construct, acquire, enlarge, equip, furnish, or improve the fire marshal's office facilities or the facilities of the Ohio fire academy. The state fire marshal's 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 state fire marshal's fund to the division of administration fund.

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 Ohio organized militia, while training or performing duty under section 5919.29 or 5923.12 of the Revised Code;

(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 in a work activity, developmental activity, or alternative work activity under sections 5107.40 to 5107.69 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 if the participant is not engaged in paid employment or subsidized employment pursuant to the activity;

(18) Employees included in the career professional service of the department of transportation under section 5501.20 of the Revised Code;

(19) Employees who must be licensed to practice law in this state to perform their duties as employees.

(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 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 firefighter, 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. 4117.14. (A) The procedures contained in this section govern the settlement of disputes between an exclusive representative and a public employer concerning the termination or modification of an existing

collective bargaining agreement or negotiation of a successor agreement, or the negotiation of an initial collective bargaining agreement.

(B)(1) In those cases where there exists a collective bargaining agreement, any public employer or exclusive representative desiring to terminate, modify, or negotiate a successor collective bargaining agreement shall:

(a) Serve written notice upon the other party of the proposed termination, modification, or successor agreement. The party must serve the notice not less than sixty days prior to the expiration date of the existing agreement or, in the event the existing collective bargaining agreement does not contain an expiration date, not less than sixty days prior to the time it is proposed to make the termination or modifications or to make effective a successor agreement.

(b) Offer to bargain collectively with the other party for the purpose of modifying or terminating any existing agreement or negotiating a successor agreement;

(c) Notify the state employment relations board of the offer by serving upon the board a copy of the written notice to the other party and a copy of the existing collective bargaining agreement.

(2) In the case of initial negotiations between a public employer and an exclusive representative, where a collective bargaining agreement has not been in effect between the parties, any party may serve notice upon the board and the other party setting forth the names and addresses of the parties and offering to meet, for a period of ninety days, with the other party for the purpose of negotiating a collective bargaining agreement.

If the settlement procedures specified in divisions (B), (C), and (D) of this section govern the parties, where those procedures refer to the expiration of a collective bargaining agreement, it means the expiration of the sixty-day period to negotiate a collective bargaining agreement referred to in this subdivision, or in the case of initial negotiations, it means the ninety day period referred to in this subdivision.

(3) The parties shall continue in full force and effect all the terms and conditions of any existing collective bargaining agreement, without resort to strike or lock-out, for a period of sixty days after the party gives notice or until the expiration date of the collective bargaining agreement, whichever occurs later, or for a period of ninety days where applicable.

(4) Upon receipt of the notice, the parties shall enter into collective bargaining.

(C) In the event the parties are unable to reach an agreement, they may submit, at any time prior to forty-five days before the expiration date of the

collective bargaining agreement, the issues in dispute to any mutually agreed upon dispute settlement procedure which supersedes the procedures contained in this section.

(1) The procedures may include:

(a) Conventional arbitration of all unsettled issues;

(b) Arbitration confined to a choice between the last offer of each party to the agreement as a single package;

(c) Arbitration confined to a choice of the last offer of each party to the agreement on each issue submitted;

(d) The procedures described in division (C)(1)(a), (b), or (c) of this section and including among the choices for the arbitrator, the recommendations of the fact finder, if there are recommendations, either as a single package or on each issue submitted;

(e) Settlement by a citizens' conciliation council composed of three residents within the jurisdiction of the public employer. The public employer shall select one member and the exclusive representative shall select one member. The two members selected shall select the third member who shall chair the council. If the two members cannot agree upon a third member within five days after their appointments, the board shall appoint the third member. Once appointed, the council shall make a final settlement of the issues submitted to it pursuant to division (G) of this section.

(f) Any other dispute settlement procedure mutually agreed to by the parties.

(2) If, fifty days before the expiration date of the collective bargaining agreement, the parties are unable to reach an agreement, any party may request the state employment relations board to intervene. The request shall set forth the names and addresses of the parties, the issues involved, and, if applicable, the expiration date of any agreement.

The board shall intervene and investigate the dispute to determine whether the parties have engaged in collective bargaining.

If an impasse exists or forty-five days before the expiration date of the collective bargaining agreement if one exists, the board shall appoint a mediator to assist the parties in the collective bargaining process.

(3) If the mediator after assisting the parties advises the board that the parties have reached an impasse, or not later than thirty-one days prior to the expiration date of the agreement, the board shall appoint within one day a fact-finding panel of not more than three members who have been selected by the parties in accordance with rules established by the board, from a list of qualified persons maintained by the board.

(a) The fact-finding panel shall, in accordance with rules and procedures

established by the board that include the regulation of costs and expenses of fact-finding, gather facts and make recommendations for the resolution of the matter. The board shall by its rules require each party to specify in writing the unresolved issues and its position on each issue to the fact-finding panel. The fact-finding panel shall make final recommendations as to all the unresolved issues.

(b) The board may continue mediation, order the parties to engage in collective bargaining until the expiration date of the agreement, or both.

(4) The following guidelines apply to fact-finding:

(a) The fact-finding panel may establish times and place of hearings which shall be, where feasible, in the jurisdiction of the state.

(b) The fact-finding panel shall conduct the hearing pursuant to rules established by the board.

(c) Upon request of the fact-finding panel, the board shall issue subpoenas for hearings conducted by the panel.

(d) The fact-finding panel may administer oaths.

(e) The board shall prescribe guidelines for the fact-finding panel to follow in making findings. In making its recommendations, the fact-finding panel shall take into consideration the factors listed in divisions (G)(7)(a) to (f) of this section.

(f) The fact-finding panel may attempt mediation at any time during the fact-finding process. From the time of appointment until the fact-finding panel makes a final recommendation, it shall not discuss the recommendations for settlement of the dispute with parties other than the direct parties to the dispute.

(5) The fact-finding panel, acting by a majority of its members, shall transmit its findings of fact and recommendations on the unresolved issues to the public employer and employee organization involved and to the board no later than fourteen days after the appointment of the fact-finding panel, unless the parties mutually agree to an extension. The state shall pay one-half the cost of the fact-finding panel. The parties each shall pay one-half of the remaining costs.

(6)(a) Not later than seven days after the findings and recommendations are sent, the legislative body, by a three-fifths vote of its total membership, and in the case of the public employee organization, the membership, by a three-fifths vote of the total membership, may reject the recommendations; if neither rejects the recommendations, the recommendations shall be deemed agreed upon as the final resolution of the issues submitted and a collective bargaining agreement shall be executed between the parties, including the fact-finding panel's recommendations, except as otherwise

modified by the parties by mutual agreement. If either the legislative body or the public employee organization rejects the recommendations, the board shall publicize the findings of fact and recommendations of the fact-finding panel. The board shall adopt rules governing the procedures and methods for public employees to vote on the recommendations of the fact-finding panel.

(b) As used in division (C)(6)(a) of this section, "legislative body" means the controlling board when the state or any of its agencies, authorities, commissions, boards, or other branch of public employment is party to the fact-finding process.

(D) If the parties are unable to reach agreement within seven days after the publication of findings and recommendations from the fact-finding panel or the collective bargaining agreement, if one exists, has expired, then the:

(1) Public employees, who are members of a police or fire department, members of the state highway patrol, deputy sheriffs, dispatchers employed by a police, fire or sheriff's department or the state highway patrol or civilian dispatchers employed by a public employer other than a police, fire, or sheriff's department to dispatch police, fire, sheriff's department, or emergency medical or rescue personnel and units, an exclusive nurse's unit, employees of the state school for the deaf or the state school for the blind, employees of any public employee retirement system, corrections officers, guards at penal or mental institutions, special police officers appointed in accordance with sections 5119.14 and 5123.13 of the Revised Code, psychiatric attendants employed at mental health forensic facilities, or youth leaders employed at juvenile correctional facilities, shall submit the matter to a final offer settlement procedure pursuant to a board order issued forthwith to the parties to settle by a conciliator selected by the parties. The parties shall request from the board a list of five qualified conciliators and the parties shall select a single conciliator from the list by alternate striking of names. If the parties cannot agree upon a conciliator within five days after the board order, the board shall on the sixth day after its order appoint a conciliator from a list of qualified persons maintained by the board or shall request a list of qualified conciliators from the American arbitration association and appoint therefrom.

(2) Public employees other than those listed in division (D)(1) of this section have the right to strike under Chapter 4117. of the Revised Code provided that the employee organization representing the employees has given a ten-day prior written notice of an intent to strike to the public employer and to the board, and further provided that the strike is for full, consecutive work days and the beginning date of the strike is at least ten work days after the ending date of the most recent prior strike involving the

same bargaining unit; however, the board, at its discretion, may attempt mediation at any time.

(E) Nothing in this section shall be construed to prohibit the parties, at any time, from voluntarily agreeing to submit any or all of the issues in dispute to any other alternative dispute settlement procedure. An agreement or statutory requirement to arbitrate or to settle a dispute pursuant to a final offer settlement procedure and the award issued in accordance with the agreement or statutory requirement is enforceable in the same manner as specified in division (B) of section 4117.09 of the Revised Code.

(F) Nothing in this section shall be construed to prohibit a party from seeking enforcement of a collective bargaining agreement or a conciliator's award as specified in division (B) of section 4117.09 of the Revised Code.

(G) The following guidelines apply to final offer settlement proceedings under division (D)(1) of this section:

(1) The parties shall submit to final offer settlement those issues that are subject to collective bargaining as provided by section 4117.08 of the Revised Code and upon which the parties have not reached agreement and other matters mutually agreed to by the public employer and the exclusive representative; except that the conciliator may attempt mediation at any time.

(2) The conciliator shall hold a hearing within thirty days of the board's order to submit to a final offer settlement procedure, or as soon thereafter as is practicable.

(3) The conciliator shall conduct the hearing pursuant to rules developed by the board. The conciliator shall establish the hearing time and place, but it shall be, where feasible, within the jurisdiction of the state. Not later than five calendar days before the hearing, each of the parties shall submit to the conciliator, to the opposing party, and to the board, a written report summarizing the unresolved issues, the party's final offer as to the issues, and the rationale for that position.

(4) Upon the request by the conciliator, the board shall issue subpoenas for the hearing.

(5) The conciliator may administer oaths.

(6) The conciliator shall hear testimony from the parties and provide for a written record to be made of all statements at the hearing. The board shall submit for inclusion in the record and for consideration by the conciliator the written report and recommendation of the fact-finders.

(7) After hearing, the conciliator shall resolve the dispute between the parties by selecting, on an issue-by-issue basis, from between each of the party's final settlement offers, taking into consideration the following:

(a) Past collectively bargained agreements, if any, between the parties;
(b) Comparison of the issues submitted to final offer settlement relative to the employees in the bargaining unit involved with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;

(c) The interests and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;

(d) The lawful authority of the public employer;

(e) The stipulations of the parties;

(f) Such other factors, not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of the issues submitted to final offer settlement through voluntary collective bargaining, mediation, fact-finding, or other impasse resolution procedures in the public service or in private employment.

(8) Final offer settlement awards made under Chapter 4117. of the Revised Code are subject to Chapter 2711. of the Revised Code.

(9) If more than one conciliator is used, the determination must be by majority vote.

(10) The conciliator shall make written findings of fact and promulgate a written opinion and order upon the issues presented to the conciliator, and upon the record made before the conciliator and shall mail or otherwise deliver a true copy thereof to the parties and the board.

(11) Increases in rates of compensation and other matters with cost implications awarded by the conciliator may be effective only at the start of the fiscal year next commencing after the date of the final offer settlement award; provided that if a new fiscal year has commenced since the issuance of the board order to submit to a final offer settlement procedure, the awarded increases may be retroactive to the commencement of the new fiscal year. The parties may, at any time, amend or modify a conciliator's award or order by mutual agreement.

(12) The parties shall bear equally the cost of the final offer settlement procedure.

(13) Conciliators appointed pursuant to this section shall be residents of the state.

(H) All final offer settlement awards and orders of the conciliator made pursuant to Chapter 4117. of the Revised Code are subject to review by the court of common pleas having jurisdiction over the public employer as provided in Chapter 2711. of the Revised Code. If the public employer is located in more than one court of common pleas district, the court of

common pleas in which the principal office of the chief executive is located has jurisdiction.

(I) The issuance of a final offer settlement award constitutes a binding mandate to the public employer and the exclusive representative to take whatever actions are necessary to implement the award.

Sec. 4123.01. As used in this chapter:

(A)(1) "Employee" means:

(a) Every person in the service of the state, or of any county, municipal corporation, township, or school district therein, including regular members of lawfully constituted police and fire departments of municipal corporations and townships, whether paid or volunteer, and wherever serving within the state or on temporary assignment outside thereof, and executive officers of boards of education, under any appointment or contract of hire, express or implied, oral or written, including any elected official of the state, or of any county, municipal corporation, or township, or members of boards of education.

As used in division (A)(1)(a) of this section, the term "regular members of lawfully constituted police and fire departments" includes the following persons when the person responds to an inherently dangerous situation that calls for an immediate response on the part of the person, regardless of whether the person is within the limits of the jurisdiction of the person's regular employment or voluntary service when responding, on the condition that the person responds to the situation as the person otherwise would if the person were on duty in the person's jurisdiction:

(i) Off-duty peace officers. As used in division (A)(1)(a)(i) of this section, "peace officer" means a member of the organized police department of any municipal corporation, including a member of the organized police department of a municipal corporation in an adjoining state serving in Ohio under a contract pursuant to section 737.04 of the Revised Code, member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, member of a police force employed by a regional transit authority under division (Y) of section 306.05 of the Revised Code, state university law enforcement officer appointed under section 3345.04 of the Revised Code, Ohio veterans' home police officer appointed under section 5907.02 of the Revised Code, police constable of any township, police officer of a township or joint township police district, state highway patrol trooper, and member of a qualified nonprofit corporation police department established pursuant to section 1702.80 of the Revised Code.

As used in division (A)(1)(a) of this section with respect to off-duty

peace officers, "jurisdiction" means the limits of the municipal corporation, township, metropolitan housing authority housing project, regional transit authority facilities or areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, college, university, or ~~Ohio~~ veterans' home operated under Chapter 5907. of the Revised Code in which the peace officer is appointed, employed, or elected.

(ii) Off-duty firefighters, whether paid or volunteer, of a lawfully constituted fire department. As used in division (A)(1)(a) of this section with respect to off-duty firefighters, "jurisdiction" means the limits of the political subdivision, joint ambulance district, fire district, or joint fire district in which the firefighter is appointed or employed.

(iii) Off-duty first responders, emergency medical technicians-basic, emergency medical technicians-intermediate, or emergency medical technicians-paramedic, whether paid or volunteer, of an ambulance service organization or emergency medical service organization pursuant to Chapter 4765. of the Revised Code. As used in division (A)(1)(a) of this section with respect to off-duty first responders and emergency medical technicians, "jurisdiction" means the limits of the political subdivision or joint ambulance district in which the first responder or emergency medical technician is employed or volunteers as a first responder or emergency medical technician.

(b) Every person in the service of any person, firm, or private corporation, including any public service corporation, that (i) employs one or more persons regularly in the same business or in or about the same establishment under any contract of hire, express or implied, oral or written, including aliens and minors, household workers who earn one hundred sixty dollars or more in cash in any calendar quarter from a single household and casual workers who earn one hundred sixty dollars or more in cash in any calendar quarter from a single employer, or (ii) is bound by any such contract of hire or by any other written contract, to pay into the state insurance fund the premiums provided by this chapter.

(c) Every person who performs labor or provides services pursuant to a construction contract, as defined in section 4123.79 of the Revised Code, if at least ten of the following criteria apply:

(i) The person is required to comply with instructions from the other contracting party regarding the manner or method of performing services;

(ii) The person is required by the other contracting party to have particular training;

(iii) The person's services are integrated into the regular functioning of

the other contracting party;

(iv) The person is required to perform the work personally;

(v) The person is hired, supervised, or paid by the other contracting party;

(vi) A continuing relationship exists between the person and the other contracting party that contemplates continuing or recurring work even if the work is not full time;

(vii) The person's hours of work are established by the other contracting party;

(viii) The person is required to devote full time to the business of the other contracting party;

(ix) The person is required to perform the work on the premises of the other contracting party;

(x) The person is required to follow the order of work set by the other contracting party;

(xi) The person is required to make oral or written reports of progress to the other contracting party;

(xii) The person is paid for services on a regular basis such as hourly, weekly, or monthly;

(xiii) The person's expenses are paid for by the other contracting party;

(xiv) The person's tools and materials are furnished by the other contracting party;

(xv) The person is provided with the facilities used to perform services;

(xvi) The person does not realize a profit or suffer a loss as a result of the services provided;

(xvii) The person is not performing services for a number of employers at the same time;

(xviii) The person does not make the same services available to the general public;

(xix) The other contracting party has a right to discharge the person;

(xx) The person has the right to end the relationship with the other contracting party without incurring liability pursuant to an employment contract or agreement.

Every person in the service of any independent contractor or subcontractor who has failed to pay into the state insurance fund the amount of premium determined and fixed by the administrator of workers' compensation for the person's employment or occupation or if a self-insuring employer has failed to pay compensation and benefits directly to the employer's injured and to the dependents of the employer's killed employees as required by section 4123.35 of the Revised Code, shall be

considered as the employee of the person who has entered into a contract, whether written or verbal, with such independent contractor unless such employees or their legal representatives or beneficiaries elect, after injury or death, to regard such independent contractor as the employer.

(2) "Employee" does not mean:

(a) A duly ordained, commissioned, or licensed minister or assistant or associate minister of a church in the exercise of ministry; or

(b) Any officer of a family farm corporation.

Any employer may elect to include as an "employee" within this chapter, any person excluded from the definition of "employee" pursuant to division (A)(2) of this section. If an employer is a partnership, sole proprietorship, or family farm corporation, such employer may elect to include as an "employee" within this chapter, any member of such partnership, the owner of the sole proprietorship, or the officers of the family farm corporation. In the event of an election, the employer shall serve upon the bureau of workers' compensation written notice naming the persons to be covered, include such employee's remuneration for premium purposes in all future payroll reports, and no person excluded from the definition of "employee" pursuant to division (A)(2) of this section, proprietor, or partner shall be deemed an employee within this division until the employer has served such notice.

For informational purposes only, the bureau shall prescribe such language as it considers appropriate, on such of its forms as it considers appropriate, to advise employers of their right to elect to include as an "employee" within this chapter a sole proprietor, any member of a partnership, the officers of a family farm corporation, or a person excluded from the definition of "employee" under division (A)(2)(a) of this section, that they should check any health and disability insurance policy, or other form of health and disability plan or contract, presently covering them, or the purchase of which they may be considering, to determine whether such policy, plan, or contract excludes benefits for illness or injury that they might have elected to have covered by workers' compensation.

(B) "Employer" means:

(1) The state, including state hospitals, each county, municipal corporation, township, school district, and hospital owned by a political subdivision or subdivisions other than the state;

(2) Every person, firm, and private corporation, including any public service corporation, that (a) has in service one or more employees regularly in the same business or in or about the same establishment under any contract of hire, express or implied, oral or written, or (b) is bound by any

such contract of hire or by any other written contract, to pay into the insurance fund the premiums provided by this chapter.

All such employers are subject to this chapter. Any member of a firm or association, who regularly performs manual labor in or about a mine, factory, or other establishment, including a household establishment, shall be considered an employee in determining whether such person, firm, or private corporation, or public service corporation, has in its service, one or more employees and the employer shall report the income derived from such labor to the bureau as part of the payroll of such employer, and such member shall thereupon be entitled to all the benefits of an employee.

(C) "Injury" includes any injury, whether caused by external accidental means or accidental in character and result, received in the course of, and arising out of, the injured employee's employment. "Injury" does not include:

(1) Psychiatric conditions except where the conditions have arisen from an injury or occupational disease;

(2) Injury or disability caused primarily by the natural deterioration of tissue, an organ, or part of the body;

(3) Injury or disability incurred in voluntary participation in an employer-sponsored recreation or fitness activity if the employee signs a waiver of the employee's right to compensation or benefits under this chapter prior to engaging in the recreation or fitness activity.

(D) "Child" includes a posthumous child and a child legally adopted prior to the injury.

(E) "Family farm corporation" means a corporation founded for the purpose of farming agricultural land in which the majority of the voting stock is held by and the majority of the stockholders are persons or the spouse of persons related to each other within the fourth degree of kinship, according to the rules of the civil law, and at least one of the related persons is residing on or actively operating the farm, and none of whose stockholders are a corporation. A family farm corporation does not cease to qualify under this division where, by reason of any devise, bequest, or the operation of the laws of descent or distribution, the ownership of shares of voting stock is transferred to another person, as long as that person is within the degree of kinship stipulated in this division.

(F) "Occupational disease" means a disease contracted in the course of employment, which by its causes and the characteristics of its manifestation or the condition of the employment results in a hazard which distinguishes the employment in character from employment generally, and the employment creates a risk of contracting the disease in greater degree and in

a different manner from the public in general.

(G) "Self-insuring employer" means an employer who is granted the privilege of paying compensation and benefits directly under section 4123.35 of the Revised Code, including a board of county commissioners for the sole purpose of constructing a sports facility as defined in section 307.696 of the Revised Code, provided that the electors of the county in which the sports facility is to be built have approved construction of a sports facility by ballot election no later than November 6, 1997.

(H) "Public employer" means an employer as defined in division (B)(1) of this section.

Sec. 4123.35. (A) Except as provided in this section, every employer mentioned in division (B)(2) of section 4123.01 of the Revised Code, and every publicly owned utility shall pay semiannually in the months of January and July into the state insurance fund the amount of annual premium the administrator of workers' compensation fixes for the employment or occupation of the employer, the amount of which premium to be paid by each employer to be determined by the classifications, rules, and rates made and published by the administrator. The employer shall pay semiannually a further sum of money into the state insurance fund as may be ascertained to be due from the employer by applying the rules of the administrator, and a receipt or certificate certifying that payment has been made shall be mailed immediately to the employer by the bureau of workers' compensation. The receipt or certificate is prima-facie evidence of the payment of the premium.

The bureau of workers' compensation shall verify with the secretary of state the existence of all corporations and organizations making application for workers' compensation coverage and shall require every such application to include the employer's federal identification number.

An employer as defined in division (B)(2) of section 4123.01 of the Revised Code who has contracted with a subcontractor is liable for the unpaid premium due from any subcontractor with respect to that part of the payroll of the subcontractor that is for work performed pursuant to the contract with the employer.

Division (A) of this section providing for the payment of premiums semiannually does not apply to any employer who was a subscriber to the state insurance fund prior to January 1, 1914, or who may first become a subscriber to the fund in any month other than January or July. Instead, the semiannual premiums shall be paid by those employers from time to time upon the expiration of the respective periods for which payments into the fund have been made by them.

The administrator shall adopt rules to permit employers to make periodic payments of the semiannual premium due under this division. The rules shall include provisions for the assessment of interest charges, where appropriate, and for the assessment of penalties when an employer fails to make timely premium payments. An employer who timely pays the amounts due under this division is entitled to all of the benefits and protections of this chapter. Upon receipt of payment, the bureau immediately shall mail a receipt or certificate to the employer certifying that payment has been made, which receipt is prima-facie evidence of payment. Workers' compensation coverage under this chapter continues uninterrupted upon timely receipt of payment under this division.

Every public employer, except public employers that are self-insuring employers under this section, shall comply with sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in regard to the contribution of moneys to the public insurance fund.

(B) Employers who will abide by the rules of the administrator and who may be of sufficient financial ability to render certain the payment of compensation to injured employees or the dependents of killed employees, and the furnishing of medical, surgical, nursing, and hospital attention and services and medicines, and funeral expenses, equal to or greater than is provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised Code, and who do not desire to insure the payment thereof or indemnify themselves against loss sustained by the direct payment thereof, upon a finding of such facts by the administrator, may be granted the privilege to pay individually compensation, and furnish medical, surgical, nursing, and hospital services and attention and funeral expenses directly to injured employees or the dependents of killed employees, thereby being granted status as a self-insuring employer. The administrator may charge employers who apply for the status as a self-insuring employer a reasonable application fee to cover the bureau's costs in connection with processing and making a determination with respect to an application.

All employers granted ~~such~~ status as self-insuring employers shall demonstrate sufficient financial and administrative ability to assure that all obligations under this section are promptly met. The administrator shall deny the privilege where the employer is unable to demonstrate the employer's ability to promptly meet all the obligations imposed on the employer by this section.

(1) The administrator shall consider, but is not limited to, the following factors, where applicable, in determining the employer's ability to meet all of the obligations imposed on the employer by this section:

(a) The employer employs a minimum of five hundred employees in this state;

(b) The employer has operated in this state for a minimum of two years, provided that an employer who has purchased, acquired, or otherwise succeeded to the operation of a business, or any part thereof, situated in this state that has operated for at least two years in this state, also shall qualify;

(c) Where the employer previously contributed to the state insurance fund or is a successor employer as defined by bureau rules, the amount of the buyout, as defined by bureau rules;

(d) The sufficiency of the employer's assets located in this state to insure the employer's solvency in paying compensation directly;

(e) The financial records, documents, and data, certified by a certified public accountant, necessary to provide the employer's full financial disclosure. The records, documents, and data include, but are not limited to, balance sheets and profit and loss history for the current year and previous four years.

(f) The employer's organizational plan for the administration of the workers' compensation law;

(g) The employer's proposed plan to inform employees of the change from a state fund insurer to a self-insuring employer, the procedures the employer will follow as a self-insuring employer, and the employees' rights to compensation and benefits; and

(h) The employer has either an account in a financial institution in this state, or if the employer maintains an account with a financial institution outside this state, ensures that workers' compensation checks are drawn from the same account as payroll checks or the employer clearly indicates that payment will be honored by a financial institution in this state.

The administrator may waive the requirements of divisions (B)(1)(a) and (b) of this section and the requirement of division (B)(1)(e) of this section that the financial records, documents, and data be certified by a certified public accountant. The administrator shall adopt rules establishing the criteria that an employer shall meet in order for the administrator to waive the requirement of division (B)(1)(e) of this section. Such rules may require additional security of that employer pursuant to division (E) of section 4123.351 of the Revised Code.

The administrator shall not grant the status of self-insuring employer to the state, except that the administrator may grant the status of self-insuring employer to a state institution of higher education, excluding its hospitals, that meets the requirements of division (B)(2) of this section.

(2) When considering the application of a public employer, except for a

board of county commissioners described in division (G) of section 4123.01 of the Revised Code, a board of a county hospital, or a publicly owned utility, the administrator shall verify that the public employer satisfies all of the following requirements as the requirements apply to that public employer:

(a) For the two-year period preceding application under this section, the public employer has maintained an unvoted debt capacity equal to at least two times the amount of the current annual premium established by the administrator under this chapter for that public employer for the year immediately preceding the year in which the public employer makes application under this section.

(b) For each of the two fiscal years preceding application under this section, the unreserved and undesignated year-end fund balance in the public employer's general fund is equal to at least five per cent of the public employer's general fund revenues for the fiscal year computed in accordance with generally accepted accounting principles.

(c) For the five-year period preceding application under this section, the public employer, to the extent applicable, has complied fully with the continuing disclosure requirements established in rules adopted by the United States securities and exchange commission under 17 C.F.R. 240.15c 2-12.

(d) For the five-year period preceding application under this section, the public employer has not had its local government fund distribution withheld on account of the public employer being indebted or otherwise obligated to the state.

(e) For the five-year period preceding application under this section, the public employer has not been under a fiscal watch or fiscal emergency pursuant to section 118.023, 118.04, or 3316.03 of the Revised Code.

(f) For the public employer's fiscal year preceding application under this section, the public employer has obtained an annual financial audit as required under section 117.10 of the Revised Code, which has been released by the auditor of state within seven months after the end of the public employer's fiscal year.

(g) On the date of application, the public employer holds a debt rating of Aa3 or higher according to Moody's investors service, inc., or a comparable rating by an independent rating agency similar to Moody's investors service, inc.

(h) The public employer agrees to generate an annual accumulating book reserve in its financial statements reflecting an actuarially generated reserve adequate to pay projected claims under this chapter for the

applicable period of time, as determined by the administrator.

(i) For a public employer that is a hospital, the public employer shall submit audited financial statements showing the hospital's overall liquidity characteristics, and the administrator shall determine, on an individual basis, whether the public employer satisfies liquidity standards equivalent to the liquidity standards of other public employers.

(j) Any additional criteria that the administrator adopts by rule pursuant to division (E) of this section.

The administrator shall not approve the application of a public employer, except for a board of county commissioners described in division (G) of section 4123.01 of the Revised Code, a board of a county hospital, or publicly owned utility, who does not satisfy all of the requirements listed in division (B)(2) of this section.

(C) A board of county commissioners described in division (G) of section 4123.01 of the Revised Code, as an employer, that will abide by the rules of the administrator and that may be of sufficient financial ability to render certain the payment of compensation to injured employees or the dependents of killed employees, and the furnishing of medical, surgical, nursing, and hospital attention and services and medicines, and funeral expenses, equal to or greater than is provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised Code, and that does not desire to insure the payment thereof or indemnify itself against loss sustained by the direct payment thereof, upon a finding of such facts by the administrator, may be granted the privilege to pay individually compensation, and furnish medical, surgical, nursing, and hospital services and attention and funeral expenses directly to injured employees or the dependents of killed employees, thereby being granted status as a self-insuring employer. The administrator may charge a board of county commissioners described in division (G) of section 4123.01 of the Revised Code that applies for the status as a self-insuring employer a reasonable application fee to cover the bureau's costs in connection with processing and making a determination with respect to an application. All employers granted such status shall demonstrate sufficient financial and administrative ability to assure that all obligations under this section are promptly met. The administrator shall deny the privilege where the employer is unable to demonstrate the employer's ability to promptly meet all the obligations imposed on the employer by this section. The administrator shall consider, but is not limited to, the following factors, where applicable, in determining the employer's ability to meet all of the obligations imposed on the board as an employer by this section:

(1) The board as an employer employs a minimum of five hundred employees in this state;

(2) The board has operated in this state for a minimum of two years;

(3) Where the board previously contributed to the state insurance fund or is a successor employer as defined by bureau rules, the amount of the buyout, as defined by bureau rules;

(4) The sufficiency of the board's assets located in this state to insure the board's solvency in paying compensation directly;

(5) The financial records, documents, and data, certified by a certified public accountant, necessary to provide the board's full financial disclosure. The records, documents, and data include, but are not limited to, balance sheets and profit and loss history for the current year and previous four years.

(6) The board's organizational plan for the administration of the workers' compensation law;

(7) The board's proposed plan to inform employees of the proposed self-insurance, the procedures the board will follow as a self-insuring employer, and the employees' rights to compensation and benefits;

(8) The board has either an account in a financial institution in this state, or if the board maintains an account with a financial institution outside this state, ensures that workers' compensation checks are drawn from the same account as payroll checks or the board clearly indicates that payment will be honored by a financial institution in this state;

(9) The board shall provide the administrator a surety bond in an amount equal to one hundred twenty-five per cent of the projected losses as determined by the administrator.

(D) The administrator shall require a surety bond from all self-insuring employers, issued pursuant to section 4123.351 of the Revised Code, that is sufficient to compel, or secure to injured employees, or to the dependents of employees killed, the payment of compensation and expenses, which shall in no event be less than that paid or furnished out of the state insurance fund in similar cases to injured employees or to dependents of killed employees whose employers contribute to the fund, except when an employee of the employer, who has suffered the loss of a hand, arm, foot, leg, or eye prior to the injury for which compensation is to be paid, and thereafter suffers the loss of any other of the members as the result of any injury sustained in the course of and arising out of the employee's employment, the compensation to be paid by the self-insuring employer is limited to the disability suffered in the subsequent injury, additional compensation, if any, to be paid by the bureau out of the surplus created by section 4123.34 of the Revised Code.

(E) In addition to the requirements of this section, the administrator shall make and publish rules governing the manner of making application and the nature and extent of the proof required to justify a finding of fact by the administrator as to granting the status of a self-insuring employer, which rules shall be general in their application, one of which rules shall provide that all self-insuring employers shall pay into the state insurance fund such amounts as are required to be credited to the surplus fund in division (B) of section 4123.34 of the Revised Code. The administrator may adopt rules establishing requirements in addition to the requirements described in division (B)(2) of this section that a public employer shall meet in order to qualify for self-insuring status.

Employers shall secure directly from the bureau central offices application forms upon which the bureau shall stamp a designating number. Prior to submission of an application, an employer shall make available to the bureau, and the bureau shall review, the information described in division (B)(1) of this section, and public employers shall make available, and the bureau shall review, the information necessary to verify whether the public employer meets the requirements listed in division (B)(2) of this section. An employer shall file the completed application forms with an application fee, which shall cover the costs of processing the application, as established by the administrator, by rule, with the bureau at least ninety days prior to the effective date of the employer's new status as a self-insuring employer. The application form is not deemed complete until all the required information is attached thereto. The bureau shall only accept applications that contain the required information.

(F) The bureau shall review completed applications within a reasonable time. If the bureau determines to grant an employer the status as a self-insuring employer, the bureau shall issue a statement, containing its findings of fact, that is prepared by the bureau and signed by the administrator. If the bureau determines not to grant the status as a self-insuring employer, the bureau shall notify the employer of the determination and require the employer to continue to pay its full premium into the state insurance fund. The administrator also shall adopt rules establishing a minimum level of performance as a criterion for granting and maintaining the status as a self-insuring employer and fixing time limits beyond which failure of the self-insuring employer to provide for the necessary medical examinations and evaluations may not delay a decision on a claim.

(G) The administrator shall adopt rules setting forth procedures for auditing the program of self-insuring employers. The bureau shall conduct

the audit upon a random basis or whenever the bureau has grounds for believing that a self-insuring employer is not in full compliance with bureau rules or this chapter.

The administrator shall monitor the programs conducted by self-insuring employers, to ensure compliance with bureau requirements and for that purpose, shall develop and issue to self-insuring employers standardized forms for use by the self-insuring employer in all aspects of the self-insuring employers' direct compensation program and for reporting of information to the bureau.

The bureau shall receive and transmit to the self-insuring employer all complaints concerning any self-insuring employer. In the case of a complaint against a self-insuring employer, the administrator shall handle the complaint through the self-insurance division of the bureau. The bureau shall maintain a file by employer of all complaints received that relate to the employer. The bureau shall evaluate each complaint and take appropriate action.

The administrator shall adopt as a rule a prohibition against any self-insuring employer from harassing, dismissing, or otherwise disciplining any employee making a complaint, which rule shall provide for a financial penalty to be levied by the administrator payable by the offending self-insuring employer.

(H) For the purpose of making determinations as to whether to grant status as a self-insuring employer, the administrator may subscribe to and pay for a credit reporting service that offers financial and other business information about individual employers. The costs in connection with the bureau's subscription or individual reports from the service about an applicant may be included in the application fee charged employers under this section.

(I) The administrator, notwithstanding other provisions of this chapter, may permit a self-insuring employer to resume payment of premiums to the state insurance fund with appropriate credit modifications to the employer's basic premium rate as such rate is determined pursuant to section 4123.29 of the Revised Code.

(J) On the first day of July of each year, the administrator shall calculate separately each self-insuring employer's assessments for the safety and hygiene fund, administrative costs pursuant to section 4123.342 of the Revised Code, and for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is not used for handicapped reimbursement, on the basis of the paid compensation attributable to the individual self-insuring employer according to the following calculation:

(1) The total assessment against all self-insuring employers as a class for each fund and for the administrative costs for the year that the assessment is being made, as determined by the administrator, divided by the total amount of paid compensation for the previous calendar year attributable to all amenable self-insuring employers;

(2) Multiply the quotient in division (J)(1) of this section by the total amount of paid compensation for the previous calendar year that is attributable to the individual self-insuring employer for whom the assessment is being determined. Each self-insuring employer shall pay the assessment that results from this calculation, unless the assessment resulting from this calculation falls below a minimum assessment, which minimum assessment the administrator shall determine on the first day of July of each year with the advice and consent of the workers' compensation oversight commission, in which event, the self-insuring employer shall pay the minimum assessment.

In determining the total amount due for the total assessment against all self-insuring employers as a class for each fund and the administrative assessment, the administrator shall reduce proportionately the total for each fund and assessment by the amount of money in the self-insurance assessment fund as of the date of the computation of the assessment.

The administrator shall calculate the assessment for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is used for handicapped reimbursement in the same manner as set forth in divisions (J)(1) and (2) of this section except that the administrator shall calculate the total assessment for this portion of the surplus fund only on the basis of those self-insuring employers that retain participation in the handicapped reimbursement program and the individual self-insuring employer's proportion of paid compensation shall be calculated only for those self-insuring employers who retain participation in the handicapped reimbursement program. The administrator, as the administrator determines appropriate, may determine the total assessment for the handicapped portion of the surplus fund in accordance with sound actuarial principles.

The administrator shall calculate the assessment for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that under division (D) of section 4121.66 of the Revised Code is used for rehabilitation costs in the same manner as set forth in divisions (J)(1) and (2) of this section, except that the administrator shall calculate the total assessment for this portion of the surplus fund only on the basis of those self-insuring employers who have not made the election to make payments directly under division (D) of section 4121.66 of the Revised Code and an

individual self-insuring employer's proportion of paid compensation only for those self-insuring employers who have not made that election.

An employer who no longer is a self-insuring employer in this state or who no longer is operating in this state, shall continue to pay assessments for administrative costs and for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is not used for handicapped reimbursement, based upon paid compensation attributable to claims that occurred while the employer was a self-insuring employer within this state.

(K) There is hereby created in the state treasury the self-insurance assessment fund. All investment earnings of the fund shall be deposited in the fund. The administrator shall use the money in the self-insurance assessment fund only for administrative costs as specified in section 4123.341 of the Revised Code.

(L) Every self-insuring employer shall certify, in affidavit form subject to the penalty for perjury, to the bureau the amount of the self-insuring employer's paid compensation for the previous calendar year. In reporting paid compensation paid for the previous year, a self-insuring employer shall exclude from the total amount of paid compensation any reimbursement the self-insuring employer receives in the previous calendar year from the surplus fund pursuant to section 4123.512 of the Revised Code for any paid compensation. The self-insuring employer also shall exclude from the paid compensation reported any amount recovered under section 4123.93 of the Revised Code and any amount that is determined not to have been payable to or on behalf of a claimant in any final administrative or judicial proceeding. The self-insuring employer shall exclude such amounts from the paid compensation reported in the reporting period subsequent to the date the determination is made. The administrator shall adopt rules, in accordance with Chapter 119. of the Revised Code, establishing the date by which self-insuring employers must submit such information and the amount of the assessments provided for in division (J) of this section for employers who have been granted self-insuring status within the last calendar year.

The administrator shall include any assessment that remains unpaid for previous assessment periods in the calculation and collection of any assessments due under this division or division (J) of this section.

(M) As used in this section, "paid compensation" means all amounts paid by a self-insuring employer for living maintenance benefits, all amounts for compensation paid pursuant to sections 4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, and 4123.64 of the Revised

Code, all amounts paid as wages in lieu of such compensation, all amounts paid in lieu of such compensation under a nonoccupational accident and sickness program fully funded by the self-insuring employer, and all amounts paid by a self-insuring employer for a violation of a specific safety standard pursuant to Section 35 of Article II, Ohio Constitution and section 4121.47 of the Revised Code.

(N) Should any section of this chapter or Chapter 4121. of the Revised Code providing for self-insuring employers' assessments based upon compensation paid be declared unconstitutional by a final decision of any court, then that section of the Revised Code declared unconstitutional shall revert back to the section in existence prior to November 3, 1989, providing for assessments based upon payroll.

(O) The administrator may grant a self-insuring employer the privilege to self-insure a construction project entered into by the self-insuring employer that is scheduled for completion within six years after the date the project begins, and the total cost of which is estimated to exceed one hundred million dollars or, for employers described in division (R) of this section, if the construction project is estimated to exceed twenty-five million dollars. The administrator may waive such cost and time criteria and grant a self-insuring employer the privilege to self-insure a construction project regardless of the time needed to complete the construction project and provided that the cost of the construction project is estimated to exceed fifty million dollars. A self-insuring employer who desires to self-insure a construction project shall submit to the administrator an application listing the dates the construction project is scheduled to begin and end, the estimated cost of the construction project, the contractors and subcontractors whose employees are to be self-insured by the self-insuring employer, the provisions of a safety program that is specifically designed for the construction project, and a statement as to whether a collective bargaining agreement governing the rights, duties, and obligations of each of the parties to the agreement with respect to the construction project exists between the self-insuring employer and a labor organization.

A self-insuring employer may apply to self-insure the employees of either of the following:

(1) All contractors and subcontractors who perform labor or work or provide materials for the construction project;

(2) All contractors and, at the administrator's discretion, a substantial number of all the subcontractors who perform labor or work or provide materials for the construction project.

Upon approval of the application, the administrator shall mail a

certificate granting the privilege to self-insure the construction project to the self-insuring employer. The certificate shall contain the name of the self-insuring employer and the name, address, and telephone number of the self-insuring employer's representatives who are responsible for administering workers' compensation claims for the construction project. The self-insuring employer shall post the certificate in a conspicuous place at the site of the construction project.

The administrator shall maintain a record of the contractors and subcontractors whose employees are covered under the certificate issued to the self-insured employer. A self-insuring employer immediately shall notify the administrator when any contractor or subcontractor is added or eliminated from inclusion under the certificate.

Upon approval of the application, the self-insuring employer is responsible for the administration and payment of all claims under this chapter and Chapter 4121. of the Revised Code for the employees of the contractor and subcontractors covered under the certificate who receive injuries or are killed in the course of and arising out of employment on the construction project, or who contract an occupational disease in the course of employment on the construction project. For purposes of this chapter and Chapter 4121. of the Revised Code, a claim that is administered and paid in accordance with this division is considered a claim against the self-insuring employer listed in the certificate. A contractor or subcontractor included under the certificate shall report to the self-insuring employer listed in the certificate, all claims that arise under this chapter and Chapter 4121. of the Revised Code in connection with the construction project for which the certificate is issued.

A self-insuring employer who complies with this division is entitled to the protections provided under this chapter and Chapter 4121. of the Revised Code with respect to the employees of the contractors and subcontractors covered under a certificate issued under this division for death or injuries that arise out of, or death, injuries, or occupational diseases that arise in the course of, those employees' employment on that construction project, as if the employees were employees of the self-insuring employer, provided that the self-insuring employer also complies with this section. No employee of the contractors and subcontractors covered under a certificate issued under this division shall be considered the employee of the self-insuring employer listed in that certificate for any purposes other than this chapter and Chapter 4121. of the Revised Code. Nothing in this division gives a self-insuring employer authority to control the means, manner, or method of employment of the employees of the contractors and

subcontractors covered under a certificate issued under this division.

The contractors and subcontractors included under a certificate issued under this division are entitled to the protections provided under this chapter and Chapter 4121. of the Revised Code with respect to the contractor's or subcontractor's employees who are employed on the construction project which is the subject of the certificate, for death or injuries that arise out of, or death, injuries, or occupational diseases that arise in the course of, those employees' employment on that construction project.

The contractors and subcontractors included under a certificate issued under this division shall identify in their payroll records the employees who are considered the employees of the self-insuring employer listed in that certificate for purposes of this chapter and Chapter 4121. of the Revised Code, and the amount that those employees earned for employment on the construction project that is the subject of that certificate. Notwithstanding any provision to the contrary under this chapter and Chapter 4121. of the Revised Code, the administrator shall exclude the payroll that is reported for employees who are considered the employees of the self-insuring employer listed in that certificate, and that the employees earned for employment on the construction project that is the subject of that certificate, when determining those contractors' or subcontractors' premiums or assessments required under this chapter and Chapter 4121. of the Revised Code. A self-insuring employer issued a certificate under this division shall include in the amount of paid compensation it reports pursuant to division (L) of this section, the amount of paid compensation the self-insuring employer paid pursuant to this division for the previous calendar year.

Nothing in this division shall be construed as altering the rights of employees under this chapter and Chapter 4121. of the Revised Code as those rights existed prior to September 17, 1996. Nothing in this division shall be construed as altering the rights devolved under sections 2305.31 and 4123.82 of the Revised Code as those rights existed prior to September 17, 1996.

As used in this division, "privilege to self-insure a construction project" means privilege to pay individually compensation, and to furnish medical, surgical, nursing, and hospital services and attention and funeral expenses directly to injured employees or the dependents of killed employees.

(P) A self-insuring employer whose application is granted under division (O) of this section shall designate a safety professional to be responsible for the administration and enforcement of the safety program that is specifically designed for the construction project that is the subject of the application.

A self-insuring employer whose application is granted under division (O) of this section shall employ an ombudsperson for the construction project that is the subject of the application. The ombudsperson shall have experience in workers' compensation or the construction industry, or both. The ombudsperson shall perform all of the following duties:

(1) Communicate with and provide information to employees who are injured in the course of, or whose injury arises out of employment on the construction project, or who contract an occupational disease in the course of employment on the construction project;

(2) Investigate the status of a claim upon the request of an employee to do so;

(3) Provide information to claimants, third party administrators, employers, and other persons to assist those persons in protecting their rights under this chapter and Chapter 4121. of the Revised Code.

A self-insuring employer whose application is granted under division (O) of this section shall post the name of the safety professional and the ombudsperson and instructions for contacting the safety professional and the ombudsperson in a conspicuous place at the site of the construction project.

(Q) The administrator may consider all of the following when deciding whether to grant a self-insuring employer the privilege to self-insure a construction project as provided under division (O) of this section:

(1) Whether the self-insuring employer has an organizational plan for the administration of the workers' compensation law;

(2) Whether the safety program that is specifically designed for the construction project provides for the safety of employees employed on the construction project, is applicable to all contractors and subcontractors who perform labor or work or provide materials for the construction project, and has as a component, a safety training program that complies with standards adopted pursuant to the "Occupational Safety and Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, and provides for continuing management and employee involvement;

(3) Whether granting the privilege to self-insure the construction project will reduce the costs of the construction project;

(4) Whether the self-insuring employer has employed an ombudsperson as required under division (P) of this section;

(5) Whether the self-insuring employer has sufficient surety to secure the payment of claims for which the self-insuring employer would be responsible pursuant to the granting of the privilege to self-insure a construction project under division (O) of this section.

(R) As used in divisions (O), (P), and (Q), "self-insuring employer"

udes the following employers, whether or not they have been granted the status of being a self-insuring employer under division (B) of this section:

(1) A state institution of higher education;

(2) A school district;

(3) A county school financing district;

(4) An educational service center;

(5) A community school established under Chapter 3314. of the Revised Code.

(S) As used in this section:

(1) "Unvoted debt capacity" means the amount of money that a public employer may borrow without voter approval of a tax levy;

(2) "State institution of higher education" means 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, and state community colleges created pursuant to Chapter 3358. of the Revised Code.

Sec. 4582.03. (A) A port authority created in accordance with section 4582.02 of the Revised Code shall be governed by a board of directors. Members of a board of directors of a port authority created by the exclusive action of a municipal corporation shall consist of the number of members it considers necessary and shall be appointed by the mayor with the advice and consent of the council. Members of a board of directors of a port authority created by the exclusive action of a township shall consist of such members as it considers necessary and shall be appointed by the township trustees of the township. Members of a board of directors of a port authority created by the exclusive action of a county shall consist of such members as it considers necessary and shall be appointed by the county commissioners of the county. Members of a board of directors of a port authority created by a combination of political subdivisions shall be divided among the political subdivisions in such proportions as the political subdivisions may agree and shall be appointed by the participating political subdivisions in the same manner as this section provides for the appointment of members by a political subdivision creating its own port authority. When a port authority is created by a combination of political subdivisions, the number of directors comprising the board shall be determined by agreement between the political subdivisions, which number from time to time may be changed by amendment of the agreement. The appointing body may at any time remove a director appointed by it for misfeasance, nonfeasance, or malfeasance in office.

A majority of the directors shall have been qualified electors of, or shall have had their businesses or places of employment in, one or more political subdivisions within the area of the jurisdiction of the port authority, for a period of at least three years next preceding their appointment.

The directors of any port authority first appointed shall serve staggered terms. Thereafter each successor shall serve for a term of four years, except that any person appointed to fill a vacancy shall be appointed to only the unexpired term and any director is eligible for reappointment.

The board of directors by rule may provide for the removal of a director who fails to attend three consecutive regular meetings of the board. If a director is so removed, a successor shall be appointed for the remaining term of the removed director in the same manner provided for the original appointment.

The directors shall elect one of their membership as chairperson and another as vice-chairperson and shall designate their terms of office, and shall appoint a secretary who need not be a director. A majority of the board of directors shall constitute a quorum, ~~the~~ for purposes of holding a meeting of the board. The affirmative vote of which a majority of a quorum shall be necessary for any action taken by the port authority unless the board of directors determines by rule to require a greater number of affirmative votes for particular actions to be taken by the port authority. No vacancy in the membership of the board shall impair the rights of a quorum to exercise all the rights and perform all the duties of the port authority.

Each member of the board of directors of a port authority shall be entitled to receive from the port authority such sum of money as the board of directors may determine as compensation for services as director and reimbursement for reasonable expenses in the performance of official duties.

(B) Except for civil actions that arise out of the operation of a motor vehicle and civil actions in which the port authority is the plaintiff, no director, officer, or employee of a port authority shall be liable in any civil action that arises under the law of this state for damage or injury caused in the performance of official duties, unless the director's, officer's, or employee's actions were manifestly outside the scope of the director's, officer's, or employee's employment or official responsibilities, or unless the director, officer, or employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

This section does not eliminate, limit, or reduce any immunity from civil liability that is conferred upon a director, officer, or employee by any other provision of the Revised Code or by case law.

(C)(1) A port authority, except as provided in division (B) of this

section, shall indemnify a director, officer, or employee from liability incurred in the performance of official duties by paying any judgment in, or amount negotiated in settlement of, any civil action arising under federal law, the law of another state, or the law of a foreign jurisdiction. The reasonableness of the amount of any consent judgment or settlement is subject to the review and approval of the board of directors of the port authority. The maximum aggregate amount of indemnification paid directly from funds to or on behalf of any director, officer, or employee pursuant to this division shall be one million dollars per occurrence, regardless of the number of persons who suffer damage, injury, or death as a result of the occurrence.

(2) A port authority shall not indemnify a director, officer, or employee under any of the following circumstances:

(a) To the extent the director, officer, or employee is covered by a policy of insurance for civil liability purchased by the port authority;

(b) When the director, officer, or employee acts manifestly outside the scope of the director's, officer's, or employee's employment or official responsibilities, with malicious purpose, in bad faith, or in a wanton or reckless manner;

(c) For any portion of a judgment that represents punitive or exemplary damages;

(d) For any portion of a consent judgment or settlement that is unreasonable.

(3) The port authority may purchase a policy or policies of insurance on behalf of directors, officers, and employees of the port authority from an insurer or insurers licensed to do business in this state providing coverage for damages in connection with any civil action, demand, or claim against the director, officer, or employee by reason of an act or omission by the director, officer, or employee occurring in the performance of official duties and not coming within the terms of division (C)(2)(b) of this section.

(4) This section does not affect any of the following:

(a) Any defense that would otherwise be available in an action alleging personal liability of a director, officer, or employee;

(b) The operation of section 9.83 of the Revised Code.

Sec. 4582.20. A port authority shall be exempt from and shall not be required to pay any taxes on property, both real and personal, or any combination thereof, belonging to any port authority; that is used exclusively for any authorized purpose; ~~provided, this.~~ This exemption shall not apply to any property occupied and used during a tax year by a person who is a lessee of the property as of the tax lien date for that tax year under

a written lease with a remaining term longer than one year. The immediately preceding sentence shall not apply to real or personal property, or any combination thereof, leased to a lessee, which property would be exempt from taxes under Chapter 5709. of the Revised Code if such property belonged to that lessee. Nothing in this section eliminates the lessor's or the lessee's obligation to comply with other provisions of the Revised Code to obtain an exemption for such property.

Sec. 4582.27. (A) A port authority created in accordance with section 4582.22 of the Revised Code shall be governed by a board of directors. Members of a board of directors of a port authority created by the exclusive action of a municipal corporation shall consist of the number of members it considers necessary and shall be appointed by the mayor with the advice and consent of the council. Members of a board of directors of a port authority created by the exclusive action of a township shall consist of such members as it considers necessary and shall be appointed by the township trustees of the township. Members of a board of directors of a port authority created by the exclusive action of a county shall consist of such members as it considers necessary and shall be appointed by the board of county commissioners of the county. Members of a board of directors of a port authority created by a combination of political subdivisions shall be divided among the political subdivisions in such proportions as the political subdivisions may agree and shall be appointed by the participating political subdivisions in the same manner as this section provides for the appointment of members by a political subdivision creating its own port authority. If a participating political subdivision is not authorized by section 4582.22 of the Revised Code to create its own port authority, the political subdivision's elected legislative body, if the political subdivision has an elected legislative body, or the political subdivision's elected official or officials who appoint the legislative body of the political subdivision shall appoint the members of a board of directors of a port authority that are to be appointed by that political subdivision. If the electors of a participating political subdivision do not elect either the legislative body of the political subdivision or the official or officials who appoint the legislative body of the political subdivision, the participating political subdivision may not appoint any member of a board of directors of a port authority. When a port authority is created by a combination of political subdivisions, the number of directors comprising the board shall be determined by agreement between the political subdivisions, which number may be changed from time to time by amendment of the agreement. The appointing body may at any time remove a director appointed by it for misfeasance, nonfeasance, or malfeasance in

office.

A majority of the directors shall have been qualified electors of, or shall have had their businesses or places of employment in, one or more political subdivisions within the area of the jurisdiction of the port authority, for a period of at least three years next preceding their appointment.

The directors of any port authority first appointed shall serve staggered terms. Thereafter each successor shall serve for a term of four years, except that any person appointed to fill a vacancy shall be appointed to only the unexpired term and any director is eligible for reappointment.

The board of directors by rule may provide for the removal of a director who fails to attend three consecutive regular meetings of the board. If a director is so removed, a successor shall be appointed for the remaining term of the removed director in the same manner provided for the original appointment.

The directors shall elect one of their membership as chairperson and another as vice-chairperson, and shall designate their terms of office, and shall appoint a secretary who need not be a director. A majority of the board of directors shall constitute a quorum, ~~the for purposes of holding a meeting of the board.~~ The affirmative vote of which a majority of a quorum shall be necessary for any action taken by the port authority unless the board of directors determines by rule to require a greater number of affirmative votes for particular actions to be taken by the port authority. No vacancy in the membership of the board shall impair the rights of a quorum to exercise all the rights and perform all the duties of the port authority.

Each member of the board of directors of a port authority shall be entitled to receive from the port authority such sum of money as the board of directors may determine as compensation for services as director and reimbursement for reasonable expenses in the performance of official duties.

(B) Except for civil actions that arise out of the operation of a motor vehicle and civil actions in which the port authority is the plaintiff, no director, officer, or employee of a port authority shall be liable in any civil action that arises under the law of this state for damage or injury caused in the performance of his duties, unless the director's, officer's, or employee's actions were manifestly outside the scope of his employment or official responsibilities, or unless the director, officer, or employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

This division does not eliminate, limit, or reduce any immunity from civil liability that is conferred upon a director, officer, or employee by any other provision of the Revised Code or by case law.

(C)(1) A port authority shall, except as provided in division (B) of this

section, indemnify a director, officer, or employee from liability incurred in the performance of his duties by paying any judgment in, or amount negotiated in settlement of, any civil action arising under federal law, the law of another state, or the law of a foreign jurisdiction. The reasonableness of the amount of any consent judgment or settlement is subject to the review and approval of the board of the port authority. The maximum aggregate amount of indemnification paid directly from funds to or on behalf of any director, officer or employee pursuant to this division shall be one million dollars per occurrence, regardless of the number of persons who suffer damage, injury, or death as a result of the occurrence.

(2) A port authority shall not indemnify a director, officer, or employee under any of the following circumstances:

(a) To the extent the director, officer, or employee is covered by a policy of insurance for civil liability purchased by the port authority;

(b) When the director, officer, or employee acts manifestly outside the scope of his employment or official responsibilities, with malicious purpose, in bad faith, or in a wanton or reckless manner;

(c) For any portion of a judgment that represents punitive or exemplary damages;

(d) For any portion of a consent judgment or settlement that is unreasonable.

(3) The port authority may purchase a policy or policies of insurance on behalf of directors, officers, and employees of the port authority from an insurer or insurers licensed to do business in this state providing coverage for damages in connection with any civil action, demand, or claim against the director, officer, or employee by reason of an act or omission by the director, officer, or employee occurring in the performance of his duties and not coming within the terms of division (C)(2)(b) of this section.

(4) This section does not affect either of the following:

(a) Any defense that would otherwise be available in an action alleging personal liability of a director, officer, or employee;

(b) The operation of section 9.83 of the Revised Code.

Sec. 4582.30. (A)(1) Except as otherwise provided in division (A)(2) or (3) of this section, the area of jurisdiction of a port authority created in accordance with section 4582.22 of the Revised Code shall include all of the territory of the political subdivision or subdivisions creating it and, if the port authority owns or leases a railroad line or airport, the territory on which the railroad's line, terminals, and related facilities or the airport's runways, terminals, and related facilities are located, regardless of whether the territory is located in the political subdivision or subdivisions creating the

port authority.

(2) A municipal corporation with a population of at least one hundred thousand according to the most recent federal decennial census may create a port authority within a county that previously created an existing port authority, if the municipal corporation did not join with the county in creating the port authority or thereafter join that port authority. The newly created port authority and the previously created and existing port authority shall possess concurrent jurisdiction over any territory within the jurisdiction of both.

(3) A county may create a port authority the area of jurisdiction of which excludes any territory that is located in that county and is in the area of jurisdiction of any port authority created in accordance with section 4582.02 or 4582.22 of the Revised Code that is then existing in the county.

(B)(1) Except as provided in division (B)(2) or (3) of this section, a political subdivision that has created a port authority or joined an existing port authority shall not be included in any other port authority.

(2) A municipal corporation with a population of less than one hundred thousand according to the most recent federal decennial census that has joined an existing port authority in a county with a population of five hundred thousand or less may create a port authority within the territorial jurisdiction of the municipal corporation.

(3) A municipal corporation and a county jointly may create a new port authority if both of the following apply:

(a) The municipal corporation created a port authority after July 9, 1982, and that port authority operates an airport;

(b) The county joined a port authority after July 9, 1982, and that port authority operated an airport.

~~Sec. 4582.46. The exercise of the powers granted by sections 4582.22 to 4582.59 of the Revised Code shall be for the benefit of the people of the state, for the improvement of their health, safety, convenience, and welfare, and for the enhancement of their residential, agricultural, recreational, economic, commercial, distribution, research, and industrial opportunities and is a public purpose. As the operation and maintenance of port authority facilities will constitute the performance of essential governmental functions, a port authority shall be exempt from and shall not be required to pay any taxes or assessments upon any port authority facility, upon any on property acquired or used by the port authority under sections 4582.22 to 4582.59 of the Revised Code, or upon the income therefrom, nor shall the transfer to or from a port authority of title or possession of any port authority facility, part thereof, or item included or to be included in any such~~

~~facility, be subject to the taxes levied pursuant to Chapters 5739. and 5741. of the Revised Code, provided, this, both real and personal, or any combination thereof, belonging to any port authority that is used exclusively for any authorized purpose. This exemption does shall not apply to any property occupied and used during a tax year by a person who is a lessee of the property as of the tax lien date for that tax year under a written lease with a remaining term longer than one year. The bonds issued under this chapter, their transfer, and the income therefrom, shall at all times be free from taxation within the state. The immediately preceding sentence shall not apply to real or personal property, or any combination thereof, leased to a lessee, which property would be exempt from taxes under Chapter 5709. of the Revised Code if such property belonged to that lessee. Nothing in this section eliminates the lessor's or the lessee's obligation to comply with other provisions of the Revised Code to obtain an exemption for such property.~~

Sec. 5709.61. As used in sections 5709.61 to 5709.69 of the Revised Code:

(A) "Enterprise zone" or "zone" means any of the following:

(1) An area with a single continuous boundary designated in the manner set forth in section 5709.62 or 5709.63 of the Revised Code and certified by the director of development as having a population of at least four thousand according to the best and most recent data available to the director and having at least two of the following characteristics:

(a) It is located in a municipal corporation defined by the United States office of management and budget as a central city of a metropolitan statistical area;

(b) It is located in a county designated as being in the "Appalachian region" under the "Appalachian Regional Development Act of 1965," 79 Stat. 5, 40 App. U.S.C.A. 403, as amended;

(c) Its average rate of unemployment, during the most recent twelve-month 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 state of Ohio for the same period;

(d) There is a prevalence of commercial or industrial structures in the area that are vacant or demolished, or are vacant and the taxes charged thereon are delinquent, and certification of the area as an enterprise zone would likely result in the reduction of the rate of vacant or demolished structures or the rate of tax delinquency in the area;

(e) The population of all census tracts in the area, according to the federal census of 1990, decreased by at least ten per cent between the years 1970 and 1990;

(f) At least fifty-one per cent of the residents of the area have incomes of less than eighty per cent of the median income of residents of the municipal corporation or municipal corporations in which the area is located, as determined in the same manner specified under section 119(b) of the "Housing and Community Development Act of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended;

(g) The area contains structures previously used for industrial purposes, but currently not so used due to age, obsolescence, deterioration, relocation of the former occupant's operations, or cessation of operations resulting from unfavorable economic conditions either generally or in a specific economic sector;

(h) It is located within one or more adjacent city, local, or exempted village school districts, the income-weighted tax capacity of each of which is less than seventy per cent of the average of the income-weighted tax capacity of all city, local, or exempted village school districts in the state according to the most recent data available to the director from the department of taxation.

The director of development shall adopt rules in accordance with Chapter 119. of the Revised Code establishing conditions constituting the characteristics described in divisions (A)(1)(d), (g), and (h) of this section.

If an area could not be certified as an enterprise zone unless it satisfied division (A)(1)(g) of this section, the legislative authority may enter into agreements in that zone under section 5709.62, 5709.63, or 5709.632 of the Revised Code only if such agreements result in the development of the facilities described in that division, the parcel of land on which such facilities are situated, or adjacent parcels. The director of development annually shall review all agreements in such zones to determine whether the agreements have resulted in such development; if the director determines that the agreements have not resulted in such development, the director immediately shall revoke certification of the zone and notify the legislative authority of such revocation. Any agreements entered into prior to revocation under this paragraph shall continue in effect for the period provided in the agreement.

(2) An area with a single continuous boundary designated in the manner set forth in section 5709.63 of the Revised Code and certified by the director of development as:

(a) Being located within a county that contains a population of three hundred thousand or less;

(b) Having a population of at least one thousand according to the best and most recent data available to the director;

(c) Having at least two of the characteristics described in divisions (A)(1)(b) to (h) of this section.

(3) An area with a single continuous boundary designated in the manner set forth under division (A)(1) of section 5709.632 of the Revised Code and certified by the director of development as having a population of at least four thousand, or under division (A)(2) of that section and certified as having a population of at least one thousand, according to the best and most recent data available to the director.

(B) "Enterprise" means any form of business organization including, but not limited to, any partnership, sole proprietorship, or corporation, including an S corporation as defined in section 1361 of the Internal Revenue Code and any corporation that is majority work-owned either directly through the ownership of stock or indirectly through participation in an employee stock ownership plan.

(C) "Facility" means an enterprise's place of business in a zone, including land, buildings, machinery, equipment, and other materials, except inventory, used in business. "Facility" includes land, buildings, machinery, production and station equipment, other equipment, and other materials, except inventory, used in business to generate electricity, provided that, for purposes of sections 5709.61 to 5709.69 of the Revised Code, the value of the property at such a facility shall be reduced by the value, if any, that is not apportioned under section 5727.15 of the Revised Code to the taxing district in which the facility is physically located. In the case of such a facility that is physically located in two adjacent taxing districts, the property located in each taxing district constitutes a separate facility.

"Facility" does not include any portion of an enterprise's place of business used primarily for making retail sales, unless the place of business is located in an impacted city as defined in section 1728.01 of the Revised Code.

(D) "Vacant facility" means a facility that has been vacant for at least ninety days immediately preceding the date on which an agreement is entered into under section 5709.62 or 5709.63 of the Revised Code.

(E) "Expand" means to make expenditures to add land, buildings, machinery, equipment, or other materials, except inventory, to a facility that equal at least ten per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(F) "Renovate" means to make expenditures to alter or repair a facility that equal at least fifty per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(G) "Occupy" means to make expenditures to alter or repair a vacant

cility equal to at least twenty per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(H) "Project site" means all or any part of a facility that is newly constructed, expanded, renovated, or occupied by an enterprise.

(I) "Project" means any undertaking by an enterprise to establish a facility or to improve a project site by expansion, renovation, or occupancy.

(J) "Position" means the position of one full-time employee performing a particular set of tasks and duties.

(K) "Full-time employee" means an individual who is employed for consideration by an enterprise 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.

(L) "New employee" means a full-time employee first employed by an enterprise at a facility that is a project site after the enterprise enters an agreement under section 5709.62 or 5709.63 of the Revised Code. "New employee" does not include an employee if, immediately prior to being employed by the enterprise, the employee was employed by an enterprise that is a related member or predecessor enterprise of that enterprise.

(M) "Unemployed person" means any person who is totally unemployed in this state, as that term is defined in division (M) of section 4141.01 of the Revised Code, for at least ten consecutive weeks immediately preceding that person's employment at a facility that is a project site, or who is so unemployed for at least twenty-six of the fifty-two weeks immediately preceding that person's employment at such a facility.

(N) "JTPA eligible employee" means any individual who is eligible for employment or training under the "Job Training Partnership Act," 96 Stat. 1324 (1982), 29 U.S.C. 1501, as amended.

(O) "First used in business" means that the property referred to has not been used in business in this state by the enterprise that owns it, or by an enterprise that is a related member or predecessor enterprise of such an enterprise, other than as inventory, prior to being used in business at a facility as the result of a project.

(P) "Training program" means any noncredit training program or course of study that is offered by any state college or university; university branch district; community college; technical college; nonprofit college or university certified under section 1713.02 of the Revised Code; school district; joint vocational school district; school registered and authorized to offer programs under section 3332.05 of the Revised Code; an entity administering any federal, state, or local adult education and training

rogram; or any enterprise; and that meets all of the following requirements:

- (1) It is approved by the director of development;
- (2) It is established or operated to satisfy the need of a particular industry or enterprise for skilled or semi-skilled employees;
- (3) An individual is required to complete the course or program before filling a position at a project site.

(Q) "Development" means to engage in the process of clearing and grading land, making, installing, or constructing water distribution systems, sewers, sewage collection systems, steam, gas, and electric lines, roads, curbs, gutters, sidewalks, storm drainage facilities, and construction of other facilities or buildings equal to at least fifty per cent of the market value of the facility prior to the expenditures, as determined for the purposes of local property taxation.

(R) "Large manufacturing facility" means a single Ohio facility that employed an average of at least one thousand individuals during the five calendar years preceding an agreement authorized under division (C)(3) of section 5709.62 or division (B)(2) of section 5709.63 of the Revised Code. For purposes of this division, both of the following apply:

- (1) A single Ohio manufacturing facility employed an average of at least one thousand individuals during the five calendar years preceding entering into such an agreement if one-fifth of the sum of the number of employees employed on the highest employment day during each of the five calendar years equals or exceeds one thousand.

- (2) The highest employment day is the day or days during a calendar year on which the number of employees employed at a single Ohio manufacturing facility was greater than on any other day during the calendar year.

(S) "Business cycle" means the cycle of business activity usually regarded as passing through alternating stages of prosperity and depression.

(T) "Making retail sales" means the effecting of point-of-final-purchase transactions at a facility open to the consuming public, 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.

(U) "Environmentally contaminated" means that hazardous substances exist at a facility under conditions that have caused or would cause the facility to be identified as contaminated by the state or federal environmental protection agency. These may include facilities located at sites identified in the master sites list or similar database maintained by the state environmental protection agency if the sites have been investigated by the agency and found to be contaminated.

(V) "Remediate" means to make expenditures to clean up an environmentally contaminated facility so that it is no longer environmentally contaminated that equal at least ten per cent of the real property market value of the facility prior to such expenditures as determined for the purposes of property taxation.

(W) "Related member" has the same meaning as defined in section 5733.042 of the Revised Code without regard to division (B) of that section, except that it is used with respect to an enterprise rather than a taxpayer.

(X) "Predecessor enterprise" means an enterprise from which the assets or equity of another enterprise has been transferred, which transfer resulted in the full or partial nonrecognition of gain or loss, or resulted in a carryover basis, both as determined by rule adopted by the tax commissioner.

(Y) "Successor enterprise" means an enterprise to which the assets or equity of another enterprise has been transferred, which transfer resulted in the full or partial nonrecognition of gain or loss, or resulted in a carryover basis, both as determined by rule adopted by the tax commissioner.

Sec. 5715.20. (A) Whenever a county board of revision renders a decision on a complaint filed under section 5715.19 of the Revised Code, it shall certify its action by certified mail to the person in whose name the property is listed or sought to be listed; and to the complainant if ~~he~~ the complainant is ~~a person other than~~ not the person in whose name the property is listed or sought to be listed, ~~and to the tax commissioner.~~ A person's time to file an appeal under section 5717.01 of the Revised Code commences with the mailing of notice of the decision to that person as provided in this section. The tax commissioner's time to file an appeal under section 5717.01 of the Revised Code commences with the last mailing to a person required to be mailed notice of the decision as provided in this division.

(B) The tax commissioner may order the county auditor to send to the commissioner the decisions of the board of revision rendered on complaints filed under section 5715.19 of the Revised Code in the manner and for the time period that the commissioner prescribes. Nothing in this division extends the commissioner's time to file an appeal under section 5717.01 of the Revised Code.

Sec. 5717.01. An appeal from a decision of a county board of revision may be taken to the board of tax appeals within thirty days after notice of the decision of the county board of revision is mailed as provided in division (A) of section 5715.20 of the Revised Code. Such an appeal may be taken by the county auditor, the tax commissioner, or any board, legislative authority, public official, or taxpayer authorized by section 5715.19 of the

Revised Code to file complaints against valuations or assessments with the auditor. Such appeal shall be taken by the filing of a notice of appeal, in person or by certified mail, express mail, or authorized delivery service, with the board of tax appeals and with the county board of revision. If notice of appeal is filed by certified mail, express mail, or authorized delivery service as provided in section 5703.056 of the Revised Code, the date of the United States postmark placed on the sender's receipt by the postal service or the date of receipt recorded by the authorized delivery service shall be treated as the date of filing. Upon receipt of such notice of appeal such county board of revision shall by certified mail notify all persons thereof who were parties to the proceeding before such county board of revision, and shall file proof of such notice with the board of tax appeals. The county board of revision shall thereupon certify to the board of tax appeals a transcript of the record of the proceedings of the county board of revision pertaining to the original complaint, and all evidence offered in connection therewith. Such appeal may be heard by the board of tax appeals at its offices in Columbus or in the county where the property is listed for taxation, or the board of tax appeals may cause its examiners to conduct such hearing and to report to it their findings for affirmation or rejection.

The board of tax appeals may order the appeal to be heard on the record and the evidence certified to it by the county board of revision, or it may order the hearing of additional evidence, and it may make such investigation concerning the appeal as it deems proper.

Sec. 5731.21. (A)(1)(a) Except as provided under division (A)(3) of this section, the executor or administrator, or, if no executor or administrator has been appointed, another person in possession of property the transfer of which is subject to estate taxes under section 5731.02 or division (A) of section 5731.19 of the Revised Code, shall file an estate tax return, within nine months of the date of the decedent's death, in the form prescribed by the tax commissioner, in duplicate, with the probate court of the county. The return shall include all property the transfer of which is subject to estate taxes, whether that property is transferred under the last will and testament of the decedent or otherwise. The time for filing the return may be extended by the tax commissioner.

(b) The estate tax return described in division (A)(1)(a) of this section shall be accompanied by a certificate, in the form prescribed by the tax commissioner, that is signed by the executor, administrator, or other person required to file the return, and that states all of the following:

- (i) The fact that the return was filed;
- (ii) The date of the filing of the return;

(iii) The fact that the estate taxes under section 5731.02 or division (A) of section 5731.19 of the Revised Code, that are shown to be due in the return, have been paid in full;

(iv) If applicable, the fact that real property listed in the inventory for the decedent's estate is included in the return;

(v) If applicable, the fact that real property not listed in the inventory for the decedent's estate, including, but not limited to, survivorship tenancy property as described in section 5302.17 of the Revised Code or transfer on death property as described in sections 5302.22 and 5302.23 of the Revised Code, also is included in the return. In this regard, the certificate additionally shall describe that real property by the same description used in the return.

(2) The probate court shall forward one copy of the estate tax return described in division (A)(1)(a) of this section to the tax commissioner.

(3) A person ~~may, but~~ shall not be required to, file a return under division (A) of this section if the decedent was a resident of this state and the value of the decedent's gross estate is twenty-five thousand dollars or less in the case of a decedent dying on or after July 1, 1968, but before January 1, 2001; two hundred thousand dollars or less in the case of a decedent dying on or after January 1, 2001, but before January 1, 2002; or three hundred thirty-eight thousand three hundred thirty-three dollars or less in the case of a decedent dying on or after January 1, 2002. ~~If a probate court issues an order that grants a summary release from administration in connection with a decedent's estate under section 2113.031 of the Revised Code, that order eliminates the duty of all persons to file an estate tax return and certificate under divisions (A)(1)(a) and (b) of this section with respect to the estate for which the order was granted.~~

(4)(a) Upon receipt of the estate tax return described in division (A)(1)(a) of this section and the accompanying certificate described in division (A)(1)(b) of this section, the probate court promptly shall give notice of the return, by a form prescribed by the tax commissioner, to the county auditor. The auditor then shall make a charge based upon the notice and shall certify a duplicate of the charge to the county treasurer. The treasurer then shall collect, subject to division (A) of section 5731.25 of the Revised Code or any other statute extending the time for payment of an estate tax, the tax so charged.

(b) Upon receipt of the return and the accompanying certificate, the probate court also shall forward the certificate to the auditor. When satisfied that the estate taxes under section 5731.02 or division (A) of section 5731.19 of the Revised Code, that are shown to be due in the return, have

been paid in full, the auditor shall stamp the certificate so forwarded to verify that payment. The auditor then shall return the stamped certificate to the probate court.

(5)(a) The certificate described in division (A)(1)(b) of this section is a public record subject to inspection and copying in accordance with section 149.43 of the Revised Code. It shall be kept in the records of the probate court pertaining to the decedent's estate and is not subject to the confidentiality provisions of section 5731.90 of the Revised Code.

(b) All persons are entitled to rely on the statements contained in a certificate as described in division (A)(1)(b) of this section if it has been filed in accordance with that division, forwarded to a county auditor and stamped in accordance with division (A)(4) of this section, and placed in the records of the probate court pertaining to the decedent's estate in accordance with division (A)(5)(a) of this section. The real property referred to in the certificate shall be free of, and may be regarded by all persons as being free of, any lien for estate taxes under section 5731.02 and division (A) of section 5731.19 of the Revised Code.

(B) An estate tax return filed under this section, in the form prescribed by the tax commissioner, and showing that no estate tax is due shall result in a determination that no estate tax is due, if the tax commissioner within three months after the receipt of the return by the department of taxation, fails to file exceptions to the return in the probate court of the county in which the return was filed. A copy of exceptions to a return of that nature, when the tax commissioner files them within that period, shall be sent by ordinary mail to the person who filed the return. The tax commissioner is not bound under this division by a determination that no estate tax is due, with respect to property not disclosed in the return.

(C) If the executor, administrator, or other person required to file an estate tax return fails to file it within nine months of the date of the decedent's death, the tax commissioner may determine the estate tax in that estate and issue a certificate of determination in the same manner as is provided in division (B) of section 5731.27 of the Revised Code. A certificate of determination of that nature has the same force and effect as though a return had been filed and a certificate of determination issued with respect to the return.

Sec. 5733.021. (A) Each taxpayer that does not in January file the report and make the payment required by section 5733.02 of the Revised Code shall make and file a declaration of estimated tax report for the tax year.

The declaration of estimated tax report shall be filed with the tax commissioner on or before the last day of January in such form as

ibed by the tax commissioner, and shall reflect an estimate of the total amount due under this chapter for the tax year.

(B) A taxpayer required to file a declaration of estimated tax report shall make remittance of such estimated tax to the tax commissioner as follows:

(1) The entire estimated tax at the time of filing the declaration of estimated tax report, if such estimated tax is not in excess of the minimum tax as provided in section 5733.06 of the Revised Code;

(2) If the estimated tax is in excess of the minimum tax:

(a) One-third of the estimated tax at the time of filing the declaration of estimated tax report;

(b) Two-thirds of the estimated tax on or before the last day of March of the tax year, if the report required by section 5733.02 of the Revised Code is filed on or before the last day of March of the tax year.

(3) If the estimated tax is in excess of the minimum tax, and an extension of time for filing the report required by section 5733.02 of the Revised Code has been granted pursuant to section 5733.13 of the Revised Code:

(a) One-third of the estimated tax at the time of filing the declaration of estimated tax report;

(b) One-third of the estimated tax on or before the last day of March of the tax year;

(c) One-third of the estimated tax on or before the last day of May of the tax year.

Remittance of the estimated tax shall be made payable to the treasurer of state and shall be made in the form prescribed by the tax commissioner, including electronic funds transfer if required by section 5733.022 of the Revised Code.

The tax commissioner shall immediately forward to the treasurer of state all amounts received under this section, and the treasurer of state shall credit all payments of such estimated tax as provided in section 5733.12 of the Revised Code.

(C)(1)(a) For any period of delinquency ending prior to the first day of June of the tax year:

~~(a) The~~ the penalty under division (A)(2) of section 5733.28 of the Revised Code may ~~only~~ be imposed only on the delinquent portion of the estimated tax required to be paid under divisions (B)(2)(a) and (b) and (B)(3)(a) and (b) of this section.

~~(b) The interest under section 5733.26 of the Revised Code shall only be imposed on the delinquent portion of estimated tax required to be paid under divisions (B)(2)(a), (B)(2)(b), (B)(3)(a), and (B)(3)(b) of this section.~~

(e) If the taxpayer was not subject to tax for the immediately preceding tax year, "estimated tax" for purposes of division (C)(1) of this section is ninety per cent of the qualifying net tax for the ~~current~~ tax year. If the taxpayer was subject to the tax for the immediately preceding tax year, "estimated tax" for purposes of division (C)(1) of this section is the lesser of one hundred per cent of the qualifying net tax for the immediately preceding tax year or ninety per cent of the qualifying net tax for the ~~current~~ tax year.

(2)(a) For any period of delinquency commencing the first day of June of the tax year and concluding on the extended due date pursuant to section 5733.13 of the Revised Code:

~~(a) The, the~~ penalty under division (A)(2) of section 5733.28 of the Revised Code may ~~only~~ be imposed only on the delinquent portion of the estimated tax required to be paid under division (B)(3)(c) of this section.

~~(b) The interest under section 5733.26 of the Revised Code shall be imposed on the delinquent portion of the amount in division (C)(3)(a) of this section for the current tax year.~~

(e) For purposes of division (C)(2) of this section, "estimated tax" is ninety per cent of the qualifying net tax for the ~~current~~ tax year.

(3) If the taxpayer did not file a report under section 5733.02 of the Revised Code for the tax year or failed to prepare and file the report in good faith for the tax year, "qualifying net tax" as used in division (C) of this section for that tax year means the amount described in division (C)(3)(a) of this ~~division~~ section. Otherwise, "qualifying net tax" as used in division (C) of this section for that tax year means the lesser of the amount described in division (C)(3)(a) or (b) of this section:

(a) The tax imposed by sections 5733.06, 5733.065, and 5733.066 of the Revised Code for that tax year reduced by the credits listed in section 5733.98 of the Revised Code. If the credits exceed the total tax, the qualifying net tax is ~~zero~~ the minimum tax.

(b) The lesser of the tax shown on the report, prepared and filed in good faith, reduced by the credits shown on that report, or the tax shown on an amended report, prepared and filed in good faith, reduced by the credits shown on that amended report. If the credits shown exceed the total tax shown, the qualifying net tax is ~~zero~~ the minimum tax.

Sec. 5733.26. (A) Except as provided in section 5733.261 of the Revised Code, if the tax imposed by ~~section~~ sections 5733.06, 5733.065, and 5733.066 of the Revised Code, ~~or any portion of that tax, whether determined by the tax commissioner or the taxpayer for the tax year,~~ reduced by the credits listed in section 5733.98 of the Revised Code, is not paid on or before the date prescribed for its payment, interest shall be

essed, 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. For estimated tax payments due under division (B) of section 5733.021 of the Revised Code, the interest due on the delinquent portion of the estimated tax required to be paid under that section shall be based on the tax owed for the tax year without regard to division (C) of section 5733.021 of the Revised Code.

(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 ~~section~~ sections 5733.06, 5733.065, and 5733.066 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. 5733.40. 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 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 section 5733.401 of the Revised Code and divisions (A)(2) to (7) 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 section 5733.401 of the Revised Code and divisions (A)(2) to (6) 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)(7) of this section that the qualifying entity 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 263A and section 482 of the Internal Revenue Code and United States department of the treasury regulations issued thereunder.

(5) The sum shall be increased or decreased by an amount equal to the qualifying investor's or qualifying beneficiary's distributive or proportionate share of the amount that the qualifying entity would be required to add or deduct under divisions (A)(20) and (21) of section 5747.01 of the Revised Code if the qualifying entity were a taxpayer for the purposes of Chapter 5747. of the Revised Code, ~~multiplied by the apportionment fraction for the qualifying entity's taxable year for which the addition or deduction would be required to be made.~~

(6) The sum shall be computed without regard to section 5733.051 or division (D) of section 5733.052 of the Revised Code.

(7) For the purposes of Chapters 5733. and 5747. of the Revised Code, guaranteed payments or compensation paid to investors by a qualifying entity that is not subject to the tax imposed by section 5733.06 of the Revised Code shall be considered a distributive share of income of the qualifying entity. Division (A)(7) of this section applies only to such payments or such compensation paid to an investor who at any time during the qualifying entity's taxable year holds at least a twenty per cent direct or indirect interest in the profits or capital of the qualifying entity.

(B) "Apportionment fraction" means:

(1) With respect to a qualifying pass-through entity other than a

ancial 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 division (C) of section 5733.056 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) Except as otherwise provided in section 5733.402 or 5747.401 of the Revised Code, "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(a) or (c) of the Internal Revenue Code, ~~an electing small business trust~~, 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 an investor described in 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 either an individual or an estate and is 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, ownership, 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 included 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.

(S) "Distributive share" includes the sum of the income, gain, expense, or loss of a disregarded entity.

Sec. 5733.401. (A) As used in this section:

(1) "Investment pass-through entity" means a pass-through entity having for its qualifying taxable year at least ninety per cent of its gross income from transaction fees in connection with the acquisition, ownership, or disposition of intangible property, loan fees, financing fees, consent fees, waiver fees, application fees, net management fees, dividend income, interest income, net capital gains from the sale or exchange of intangible property, or distributive shares of income from pass-through entities; and having for its qualifying taxable year at least ninety per cent of the net book value of its assets represented by intangible assets. Such percentages shall be the quarterly average of those percentages as calculated during the pass-through entity's taxable year.

(2) "Net management fees" means management fees that a pass-through entity earns or receives from all sources, reduced by management fees that the pass-through entity incurs or pays to any person.

(B) For the purposes of divisions (A) and (C) of this section only, an investment in a pass-through entity shall be deemed to be an investment in an intangible asset, and sections 5733.057 and 5747.231 of the Revised

Code do not apply for the purposes of making the determinations required by division (A) of this section or claiming the exclusion provided by division (C) of this section.

(C)(1) Except as otherwise provided in division ~~(D)~~(C)(2) of this section, for the purposes of division (A) of section 5733.40 of the Revised Code, an investment pass-through entity shall exclude from the calculation of the adjusted qualifying amount ~~at the portion of the investment pass-through entity's net income attributable to~~ transaction fees in connection with the acquisition, ownership, or disposition of intangible property; loan fees; financing fees; consent fees; waiver fees; application fees; net management fees, ~~but if such fees exceed five per cent of the entity's net income calculated in accordance with generally accepted accounting principles, all net management fees shall be included in the calculation of the adjusted qualifying amount;~~ dividend income; interest income; net capital gains from the sale ~~or~~ exchange, or other disposition of intangible property; and all types and classifications of income attributable to distributive shares of income from other pass-through entities. Nothing in this division shall be construed to provide for an exclusion of any item from adjusted qualifying amount more than once.

~~(D) Sections 5733.057 and 5747.231 of the Revised Code do not apply for the purposes of making the determinations required by division (A) of this section or claiming the exclusion provided by division (C) of this section.~~

(2) Notwithstanding division (C)(1) of this section, the portion of the investment pass-through entity's net income attributable to net management fees shall not be excluded from the calculation of the adjusted qualifying amount if such net management fees exceed five per cent of the entity's net income calculated in accordance with generally accepted accounting principles.

Sec. 5739.031. (A) Upon application, the tax commissioner may issue a direct payment permit that authorizes a consumer to pay the sales tax levied by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code or the use tax levied by or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code directly to the state and waives the collection of the tax by the vendor or seller if payment directly to the state would improve compliance and increase the efficiency of the administration of the tax. The commissioner may adopt rules establishing the criteria for the issuance of such permits.

(B) Each permit holder, on or before the twenty-third day of each month, shall make and file with the treasurer of state a return for the

preceding month in such form as is prescribed by the tax commissioner and shall pay the tax shown on the return to be due. The return shall show the sum of the prices of taxable merchandise used and taxable services received, the amount of tax due from the permit holder, and such other information as the commissioner deems necessary. The commissioner, upon written request by the permit holder, may extend the time for making and filing returns and paying the tax. If the commissioner determines that a permit holder's tax liability is not such as to merit monthly filing, the commissioner may authorize the permit holder to file returns and pay the tax at less frequent intervals. The treasurer of state shall show on the return the date it was filed and the amount of the payment remitted to the treasurer. Thereafter, the treasurer immediately shall transmit all returns filed under this section to the tax commissioner.

Any permit holder required to file a return and pay the tax under this section whose total payment for any calendar year equals or exceeds the amount shown in section 5739.032 of the Revised Code shall make each payment required by this section in the second ensuing and each succeeding year by electronic funds transfer as prescribed by section 5739.032 of the Revised Code, except as otherwise prescribed by that section.

(C) For purposes of reporting and remitting the tax, the price of tangible personal property or services purchased by, or of tangible personal property produced by, the permit holder shall be determined under division (G) of section 5741.01 of the Revised Code. ~~Notwithstanding~~ Except as otherwise provided in division (C) of section 5739.033 of the Revised Code, the situs of any purchase transaction made by the permit holder is the location where the tangible personal property or service is received by the permit holder.

(D) It shall be the duty of every permit holder required to make a return and pay its tax under this section to keep and preserve suitable records of purchases together with invoices of purchases, bills of lading, asset ledgers, depreciation schedules, transfer journals, and such other primary and secondary records and documents in such form as the commissioner requires. All such records and other documents shall be open during business hours to the inspection of the tax commissioner, and shall be preserved for a period of four years, unless the commissioner, in writing, has authorized their destruction or disposal at an earlier date, or by order or by reason of a waiver of the four-year time limitation pursuant to section 5739.16 of the Revised Code requires that they be kept longer.

(E) A permit granted pursuant to this section shall continue to be valid until surrendered by the holder or canceled for cause by the tax commissioner.

(F) Persons who hold a direct payment permit that has not been canceled shall not be required to issue exemption certificates and shall not be required to pay the tax as prescribed in sections 5739.03, 5739.033, and 5741.12 of the Revised Code. Such persons shall notify vendors and sellers from whom purchases of tangible personal property or services are made, of their direct payment permit number and that the tax is being paid directly to the state. Upon receipt of such notice, such vendor or seller shall be absolved from all duties and liabilities imposed by section 5739.03 or 5741.04 of the Revised Code with respect to sales of tangible personal property or services to such permit holder.

Vendors and sellers who make sales upon which the tax is not collected by reason of the provisions of this section shall maintain records in such manner that the amount involved and identity of the purchaser may be ascertained. The receipts from such sales shall not be subject to the tax levied in section 5739.10 of the Revised Code.

Upon the cancellation or surrender of a direct payment permit, the provisions of sections 5739.03, 5741.04 and 5741.12 of the Revised Code shall immediately apply to all purchases made subsequent to such cancellation or surrender by the person who previously held such permit, and such person shall so notify vendors and sellers from whom purchases of tangible personal property or services are made, in writing, prior to or at the time of the first purchase after such cancellation or surrender. Upon receipt of such notice, the vendor shall be subject to the provisions of sections 5739.03 and 5739.10 of the Revised Code and the seller shall be subject to the provisions of section 5741.04 of the Revised Code, with respect to all sales subsequently made to such person. Failure of any such person to notify vendors or sellers from whom purchases of tangible personal property or services are made of the cancellation or surrender of a direct payment permit shall be considered as a refusal to pay the tax by the person required to issue such notice.

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 federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(1) Add interest or dividends on obligations or securities of any state or

of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.

(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends 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 that the interest or dividends are 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) 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, add, for the beneficiary's taxable years beginning before 2002 or after 2004, 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 to the extent that the portion was not included in the trust's taxable income for any of the trust's taxable years beginning in 2002, 2003, or 2004. "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 that the interest or interest equivalent is 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 that the loss has been deducted or the gain has been included in computing federal adjusted gross income.

(10) Deduct or add amounts, as provided under section 5747.70 of the Revised Code, related to contributions to variable college savings program accounts made or tuition credits purchased pursuant to Chapter 3334. of the Revised Code.

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

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

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

(12)(a) Deduct any amount included in federal adjusted gross income solely because the amount represents a reimbursement or refund of expenses

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

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

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

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

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

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

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

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

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

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

taxpayer's taxable year under the Internal Revenue Code;

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

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

(18) Beginning in taxable year 2001, if the taxpayer is married and files a joint return and the combined federal adjusted gross income of the taxpayer and the taxpayer's spouse for the taxable year does not exceed one hundred thousand dollars, or if the taxpayer is single and has a federal adjusted gross income for the taxable year not exceeding fifty thousand dollars, deduct amounts paid during the taxable year for qualified tuition and fees paid to an eligible institution for the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer, who is a resident of this state and is enrolled in or attending a program that culminates in a degree or diploma at an eligible institution. The deduction may be claimed only to the extent that qualified tuition and fees are not otherwise deducted or excluded for any taxable year from federal or Ohio adjusted gross income. The deduction may not be claimed for educational expenses for which the taxpayer claims a credit under section 5747.27 of the Revised Code.

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

(20)(a) Add five-sixths of the amount of depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code, including the taxpayer's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to a pass-through entity in which the taxpayer has a direct or indirect ownership interest. The tax commissioner, under procedures established by the commissioner, may waive the add-back related to a pass-through entity if the taxpayer owns, directly or indirectly, less than five per cent of the pass-through entity.

(b) Nothing in division (A)(20) of this section shall be construed to adjust or modify the adjusted basis of any asset.

(c) To the extent the add-back required under division (A)(20)(a) of this

section is attributable to property generating nonbusiness income or loss allocated under section 5747.20 of the Revised Code, the add-back shall be situated to the same location as the nonbusiness income or loss generated by the property for the purpose of determining the credit under division (A) of section 5747.05 of the Revised Code. Otherwise, the add-back shall be apportioned, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(21)(a) If the taxpayer was required to add an amount under division (A)(20)(a) of this section for a taxable year, deduct one-fifth of the amount so added for each of the five succeeding taxable years.

(b) If the amount deducted under division (A)(21)(a) of this section is attributable to an add-back allocated under division (A)(20)(c) of this section, the amount deducted shall be situated to the same location. Otherwise, the add-back shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(B) "Business income" means income, including gain or loss, arising from transactions, activities, and sources in the regular course of a trade or business and includes income, gain, or loss from real property, tangible property, 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. "Business income" includes income, including gain or loss, from a partial or complete liquidation of a business, including, but not limited to, gain or loss from the sale or other disposition of goodwill.

(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 any of the following, provided that division (I)(3) of this section applies only to taxable years of a trust beginning in 2002, 2003, or 2004:

(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.

~~(3) Division (I)(3) of this section applies only to taxable years of a trust beginning in 2002, 2003, or 2004.~~

A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part. ~~For~~

For the purposes of division (I)(3) of this section, a:

(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I)(3)(d) of this section, that it the trust consists, directly or indirectly, in whole or in part, of the net current value, adjusted for any profits, gains, or losses, of assets or, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following:

~~(a) The will~~ (i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent who was domiciled in this state at the time of the decedent's death, but only if the trust is described in division (I)(3)(e)(i) or (ii) of this section;

~~(b)(ii) A person who is~~ was domiciled in this state if the trust or part of the trust is not irrevocable for the purposes of this chapter when the person directly or indirectly transferred assets to an irrevocable trust, but only if at least one of the trust's qualifying beneficiaries is domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year;

~~(e)(iii) A person who was domiciled in this state~~ for the purposes of this chapter when the trust document or instrument or part of the trust document or instrument became irrevocable, but only if, for all or some portion of the current taxable year of the trust, at least one beneficiary of the trust is a resident of the trust's qualifying beneficiaries is a resident domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year.

~~For the purpose of divisions (I)(3)(b) and (e) of this section, the transfer of net assets to a~~ (b) A trust is irrevocable to the extent that the transferor is not considered to be the owner of the net assets of the trust under sections

671 to 678 of the Internal Revenue Code.

(c) With respect to a trust other than a charitable lead trust, "qualifying beneficiary" has the same meaning as "potential current beneficiary" as defined in section 1361(e)(2) of the Internal Revenue Code, and with respect to a charitable lead trust "qualifying beneficiary" is any current, future, or contingent beneficiary, but with respect to any trust "qualifying beneficiary" excludes a person or a governmental entity or instrumentality to any of which a contribution would qualify for the charitable deduction under section 170 of the Internal Revenue Code.

(d) For the purposes of division (I)(3)(a) of this section, the extent to which a trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred directly or indirectly, in whole or part, to the trust by any of the sources enumerated in that division shall be ascertained by multiplying the fair market value of the trust's assets, net of related liabilities, by the qualifying ratio, which shall be computed as follows:

(i) The first time the trust receives assets, the numerator of the qualifying ratio is the fair market value of those assets at that time, net of any related liabilities, from sources enumerated in division (I)(3)(a) of this section. The denominator of the qualifying ratio is the fair market value of all the trust's assets at that time, net of any related liabilities.

(ii) Each subsequent time the trust receives assets, a revised qualifying ratio shall be computed. The numerator of the revised qualifying ratio is the sum of (1) the fair market value of the trust's assets immediately prior to the subsequent transfer, net of any related liabilities, multiplied by the qualifying ratio last computed without regard to the subsequent transfer, and (2) the fair market value of the subsequently transferred assets at the time transferred, net of any related liabilities, from sources enumerated in division (I)(3)(a) of this section. The denominator of the revised qualifying ratio is the fair market value of all the trust's assets immediately after the subsequent transfer, net of any related liabilities.

(e) For the purposes of division (I)(3)(a)(i) of this section:

(i) A trust is described in division (I)(3)(e)(i) of this section if the trust is a testamentary trust and the testator of that testamentary trust was domiciled in this state at the time of the testator's death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

purposes of this chapter during all or some portion of the trust's current taxable year.

(f) For the purposes of division (I)(3)(e)(ii) of this section, a "qualifying transfer" is a transfer of assets, net of any related liabilities, directly or indirectly to a trust, if the transfer is described in any of the following:

(i) The transfer is made to a trust, created by the decedent before the decedent's death and while the decedent was domiciled in this state for the purposes of this chapter, and, prior to the death of the decedent, the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.

(ii) The transfer is made to a trust to which the decedent, prior to the decedent's death, had directly or indirectly transferred assets, net of any related liabilities, while the decedent was domiciled in this state for the purposes of this chapter, and prior to the death of the decedent the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.

(iii) The transfer is made on account of a contractual relationship existing directly or indirectly between the transferor and either the decedent or the estate of the decedent at any time prior to the date of the decedent's death, and the decedent was domiciled in this state at the time of death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(iv) The transfer is made to a trust on account of a contractual relationship existing directly or indirectly between the transferor and another person who at the time of the decedent's death was domiciled in this state for purposes of this chapter.

(v) The transfer is made to a trust on account of the will of a testator.

(vi) The transfer is made to a trust created by or caused to be created by a court, and the trust was directly or indirectly created in connection with or as a result of the death of an individual who, for purposes of the taxes levied under Chapter 5731. of the Revised Code, was domiciled in this state at the time of the individual's death.

(g) The tax commissioner may adopt rules to ascertain the part of a trust residing in this state ~~under this division.~~

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

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

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

declarations of estimated tax when so required.

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

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

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

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

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

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

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

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

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

(1) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, 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; but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S)(1)(a) or (b) of this section:

(a) The net amount is not attributable to the S portion of an electing small business trust and has not been distributed to beneficiaries for the taxable year;

(b) The net amount is attributable to the S portion of an electing small business trust for the taxable year.

(2) Add interest or dividends, net of ordinary, necessary, and reasonable

expenses not deducted in computing federal taxable income, on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S)(1)(a) or (b) of this section;

(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, net of related expenses deducted in computing federal taxable 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 that the interest or dividends are exempt from state taxes under the laws of the United States, but only to the extent that such amount is included in federal taxable income and is described in either division (S)(1)(a) or (b) of this section;

(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, but only to the extent such amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

(6) Deduct any interest or interest equivalent, net of related expenses deducted in computing federal taxable income, on public obligations and purchase obligations, but only to the extent that such net amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

(7) Add any loss or deduct any gain resulting from sale, exchange, or other disposition of public obligations to the extent that such loss has been deducted or such gain has been included in computing either federal taxable income or income of the S portion of an electing small business trust for the taxable year;

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

(9)(a) Deduct any amount included in federal taxable income solely because the amount represents a reimbursement or refund of expenses that in a previous year the decedent had deducted as an itemized deduction

pursuant to section 63 of the Internal Revenue Code and applicable treasury regulations. The deduction otherwise allowed under division (S)(9)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer or decedent deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio taxable income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio taxable income in any taxable year, but only to the extent such amount has not been distributed to beneficiaries for the taxable year.

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

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

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

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

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

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

(12) Deduct any amount, net of related expenses deducted in computing federal taxable income, that a trust is required to report as farm income on its federal income tax return, but only if the assets of the trust include at least ten acres of land satisfying the definition of "land devoted exclusively to agricultural use" under section 5713.30 of the Revised Code, regardless of whether the land is valued for tax purposes as such land under sections 5713.30 to 5713.38 of the Revised Code. If the trust is a pass-through entity investor, section 5747.231 of the Revised Code applies in ascertaining if the trust is eligible to claim the deduction provided by division (S)(12) of this section in connection with the pass-through entity's farm income.

Except for farm income attributable to the S portion of an electing small business trust, the deduction provided by division (S)(12) of this section is

allowed only to the extent that the trust has not distributed such farm income. Division (S)(12) of this section applies only to taxable years of a trust beginning in 2002, 2003, or 2004.

(13) Add the net amount of income described in section 641(c) of the Internal Revenue Code to the extent that amount is not included in federal taxable income.

(14) Add or deduct the amount the taxpayer would be required to add or deduct under division (A)(20) or (21) of this section if the taxpayer's Ohio taxable income were computed in the same manner as an individual's Ohio adjusted gross income is computed under this section. In the case of a trust, division (S)(14) of this section applies only to any of the trust's taxable years beginning in 2002, 2003, or 2004.

(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 equity investor in that pass-through entity.

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

(Y) "Month" means a calendar month.

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

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

(2) "Qualified tuition and fees" means tuition and fees imposed by an eligible institution as a condition of enrollment or attendance, not exceeding two thousand five hundred dollars in each of the individual's first two years of post-secondary education. If the individual is a part-time student,

"qualified tuition and fees" includes tuition and fees paid for the academic equivalent of the first two years of post-secondary education during a maximum of five taxable years, not exceeding a total of five thousand dollars. "Qualified tuition and fees" does not include:

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

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

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

(BB)(1) "Modified business income" means the business income included in a trust's Ohio taxable income after such taxable income is first reduced by the qualifying trust amount, if any.

(2) "Qualifying trust amount" of a trust means capital gains and losses from the sale, exchange, or other disposition of equity or ownership ~~interest interests~~ in, or debt obligations of, a qualifying investee to the extent included in the trust's Ohio taxable income, but only if the ~~location of the physical assets~~ following requirements are satisfied:

(a) The book value of the qualifying ~~investee~~ investee's physical assets in this state and everywhere, as of the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, is available to the trust.

(b) The requirements of section 5747.011 of the Revised Code are satisfied for the trust's taxable year in which the trust recognizes the gain or loss.

Any gain or loss that is not a qualifying trust amount is modified business income, qualifying investment income, or modified nonbusiness income, as the case may be.

(3) "Modified nonbusiness income" means a trust's Ohio taxable income other than modified business income ~~and~~, other than the qualifying trust amount, and other than qualifying investment income, as defined in section 5747.012 of the Revised Code, to the extent such qualifying investment income is not otherwise part of modified business income.

(4) "Modified Ohio taxable income" applies only to trusts, and means the sum of the ~~following~~ amounts described in divisions (BB)(4)(a) to (c) of this section:

(a) ~~Modified business income multiplied by the~~ The fraction, calculated under division (B)(2) of section 5733.05, and applying section 5733.057 of

the Revised Code, as if the trust were a corporation subject to the tax imposed by section 5733.06 of the Revised Code; multiplied by the sum of the following amounts:

(i) The trust's modified business income;

(ii) The trust's qualifying investment income, as defined in section 5747.012 of the Revised Code, but only to the extent the qualifying investment income does not otherwise constitute modified business income and does not otherwise constitute a qualifying trust amount.

(b) The qualifying trust amount multiplied by the ratio a fraction, the numerator of which is the sum of the book value of the qualifying investee's physical assets in this state of the qualifying investee to on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount, and the denominator of which is the sum of the book value of the qualifying investee's total physical assets everywhere of the qualifying investee on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount. If, for a taxable year, the trust recognizes a qualifying trust amount with respect to more than one qualifying investee, the amount described in division (BB)(4)(b) of this section shall equal the sum of the products so computed for each such qualifying investee.

(c) ~~Modified nonbusiness income to the extent produced by assets held by a trust or portion of a trust that is a resident for the purposes of this chapter~~ (i) With respect to a trust or portion of a trust that is a resident as ascertained in accordance with division (I)(3)(d) of this section, its modified nonbusiness income.

(ii) With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the amount of its modified nonbusiness income satisfying the descriptions in divisions (B)(2) to (5) of section 5747.20 of the Revised Code.

If the allocation and apportionment of a trust's income under divisions (BB)(4)(a) and (c) of this section do not fairly represent the modified Ohio taxable income of the trust in this state, the alternative methods described in division (C) of section 5747.21 of the Revised Code may be applied in the manner and to the same extent provided in that section.

(5) ~~Qualifying~~ (a) Except as set forth in division (BB)(5)(b) of this section, "qualifying investee" means a person in which a trust has an equity or ownership interest, or a person or unit of government the debt obligations of either of which are owned by a trust. For the purposes of division (BB)(2)(a) of this section and for the purpose of computing the fraction

described in division (BB)(4)(b) of this section, all of the following apply:

(i) If the qualifying investee is a member of a qualifying controlled group on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, then "qualifying investee" includes all persons in the qualifying controlled group on such last day.

(ii) If the qualifying investee, or if the qualifying investee and any members of the qualifying controlled group of which the qualifying investee is a member on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, separately or cumulatively own, directly or indirectly, on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount, more than fifty per cent of the equity of a pass-through entity, then the qualifying investee and the other members are deemed to own the proportionate share of the pass-through entity's physical assets which the pass-through entity directly or indirectly owns on the last day of the pass-through entity's calendar or fiscal year ending within or with the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount.

(iii) For the purposes of division (BB)(5)(a)(iii) of this section, "upper level pass-through entity" means a pass-through entity directly or indirectly owning any equity of another pass-through entity, and "lower level pass-through entity" means that other pass-through entity.

An upper level pass-through entity, whether or not it is also a qualifying investee, is deemed to own, on the last day of the upper level pass-through entity's calendar or fiscal year, the proportionate share of the lower level pass-through entity's physical assets that the lower level pass-through entity directly or indirectly owns on the last day of the lower level pass-through entity's calendar or fiscal year ending within or with the last day of the upper level pass-through entity's fiscal or calendar year. If the upper level pass-through entity directly and indirectly owns less than fifty per cent of the equity of the lower level pass-through entity on each day of the upper level pass-through entity's calendar or fiscal year in which or with which ends the calendar or fiscal year of the lower level pass-through entity and if, based upon clear and convincing evidence, complete information about the location and cost of the physical assets of the lower pass-through entity is not available to the upper level pass-through entity, then solely for purposes of ascertaining if a gain or loss constitutes a qualifying trust amount, the upper level pass-through entity shall be deemed as owning no equity of the

lower level pass-through entity for each day during the upper level pass-through entity's calendar or fiscal year in which or with which ends the lower level pass-through entity's calendar or fiscal year. Nothing in division (BB)(5)(a)(iii) of this section shall be construed to provide for any deduction or exclusion in computing any trust's Ohio taxable income.

(b) With respect to a trust that is not a resident for the taxable year and with respect to a part of a trust that is not a resident for the taxable year, "qualifying investee" for that taxable year does not include a C corporation if both of the following apply:

(i) During the taxable year the trust or part of the trust recognizes a gain or loss from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, the C corporation.

(ii) Such gain or loss constitutes nonbusiness income.

(6) "Available" means information is such that a person is able to learn of the information by the due date plus extensions, if any, for filing the return for the taxable year in which the trust recognizes the gain or loss.

(CC) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code.

(DD) "Related member" has the same meaning as in section 5733.042 of the Revised Code.

~~(CC)~~(EE) 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. 5747.011. (A) As used in this section:

(1) "Qualifying closely-held C corporation" means a person classified for federal income tax purposes as an association taxed as a corporation and that has more than fifty per cent of the value of its outstanding stock or equity owned, directly or indirectly, by or for not more than five qualifying persons. For the purposes of this division, the ownership of stock shall be determined under the rules set forth in section 544 of the Internal Revenue Code.

(2) "Qualifying person" means an individual; an organization described in section 401(a), 501(c)(17), or 509(a) of the Internal Revenue Code; or a portion of a trust permanently set aside or to be used exclusively for the purposes described in section 642(c) of the Internal Revenue Code or a corresponding provision of a prior federal income tax law.

(3) "Qualifying limited liability company" means a limited liability company that is not classified for federal income tax purposes as an

association taxed as a corporation.

(4) "Ownership interest" means the equity or ownership interest in, or debt obligation of, a "qualifying investee" as defined in section 5747.01 of the Revised Code.

(5) "Qualifying individual beneficiary" has the same meaning as qualifying beneficiary as used in division (I)(3)(c) of section 5747.01 of the Revised Code, but is limited to individuals.

(6) "Family" of an individual means only the individual's spouse; the individual's ancestors, limited to the individual's parents, grandparents, and great grandparents; the siblings of such ancestors, whether by the whole or half blood or by legal adoption; the lineal descendants of such ancestors and siblings; persons legally adopted by such ancestors or by such siblings; and the spouses of such ancestors, siblings, legally adopted persons, and lineal descendants.

(B) The requirements of this division apply for purposes of division (BB)(2)(b) of section 5747.01 of the Revised Code and for the purposes of division (D) of section 5747.012 of the Revised Code. Gain or loss included in a trust's Ohio taxable income is not a qualifying trust amount unless the trust's ownership interest in the qualifying investee is at least five per cent of the total outstanding ownership interests in such qualifying investee at any time during the ten-year period ending on the last day of the trust's taxable year in which the sale, exchange, or other disposition occurs. Nothing in this section negates the requirements in division (BB)(2) of section 5747.01 of the Revised Code.

For the purpose of ascertaining whether the trust's ownership interest in a qualifying investee is at least five per cent of the total outstanding ownership interests in such qualifying investee, the following apply:

(1) On each day, an ownership interest owned, directly or indirectly, by or for a qualifying closely-held C corporation, an S corporation, a partnership other than a publicly traded partnership, a qualifying limited liability company, an estate, or a trust that is irrevocable as defined in division (I)(3)(b) of section 5747.01 of the Revised Code is considered as being owned proportionately on the same day by the equity investors of such qualifying closely-held C corporation, S corporation, partnership, or qualifying limited liability company, or by the beneficiaries of such estate or trust, as the case may be. For the purposes of division (B)(1) of this section, a beneficiary's proportionate share of an ownership interest held by a trust shall be ascertained in accordance with section 544(a)(1) of the Internal Revenue Code.

(2) On each day, a trust, hereinafter referred to as the first trust, is

considered as owning any ownership interest owned, directly or indirectly, by or for another trust, hereinafter referred to as the second trust, if on the same day the second trust has at least one individual trustee who is either (a) a trustee of the first trust, or (b) a member of a family that includes at least one of the trustees of the first trust.

(3) On each day, a trust, hereinafter referred to as the first trust, is considered as owning any ownership interest owned, directly or indirectly, by or for another trust, hereinafter referred to as the second trust, if on the same day the second trust has at least one qualifying individual beneficiary who is either (a) a qualifying individual beneficiary of the first trust or (b) a member of a family which includes a qualifying individual beneficiary of the first trust.

(4) An ownership interest constructively owned by a person by reason of the application of division (B)(1) of this section shall, for the purpose of applying divisions (B)(1) to (3) of this section, be treated as actually owned by that person.

(5) An ownership interest constructively owned by a trust by reason of the application of division (B)(2) or (3) of this section shall not be treated as actually owned by that trust for purposes of applying divisions (B)(1) to (3) of this section.

(6) If an ownership interest may be considered as owned by a trust under division (B)(1) or (2) of this section, the ownership interest shall be considered owned by that trust under division (B)(2) of this section.

(7) If an ownership interest may be considered as owned by a trust under division (B)(1) or (3) of this section, the ownership interest shall be considered owned by that trust under division (B)(3) of this section.

Sec. 5747.012. This section applies for the purposes of divisions (BB)(3) and (BB)(4)(a)(ii) of section 5747.01 of the Revised Code.

(A) As used in this section:

(1)(a) Except as set forth in division (A)(1)(b) of this section, "qualifying investment income" means the portion of a qualifying investment pass-through entity's net income attributable to transaction fees in connection with the acquisition, ownership, or disposition of intangible property; loan fees; financing fees; consent fees; waiver fees; application fees; net management fees; dividend income; interest income; net capital gains from the sale or exchange or other disposition of intangible property; and all types and classifications of income attributable to distributive shares of income from other pass-through entities.

(b)(i) Notwithstanding division (A)(1)(a) of this section, "qualifying investment income" does not include any part of the qualifying investment

pass-through entity's net capital gain which, after the application of section 5747.231 of the Revised Code with respect to a trust, would also constitute a qualifying trust amount.

(ii) Notwithstanding division (A)(1)(a) of this section, "qualifying investment income" does not include any part of the qualifying investment pass-through entity's net income attributable to the portion of a distributive share of income directly or indirectly from another pass-through entity to the extent such portion constitutes the other pass-through entity's net capital gain which, after the application of section 5747.231 of the Revised Code with respect to a trust, would also constitute a qualifying trust amount.

(2) "Qualifying investment pass-through entity" means an investment pass-through entity, as defined in section 5733.401 of the Revised Code, subject to the following qualifications:

(a) "Forty per cent" shall be substituted for "ninety per cent" wherever "ninety per cent" appears in section 5733.401 of the Revised Code.

(b) The pass-through entity must have been formed or organized prior to June 5, 2002.

(c) The qualifying section 5747.012 trust or related persons to the qualifying section 5747.012 trust must directly or indirectly own at least five per cent of the equity of the investment pass-through entity each day of the entity's fiscal or calendar year ending within or with the last day of the qualifying section 5747.012 trust's taxable year;

(d) During the investment pass-through entity's calendar or fiscal year ending within or with the last day of the qualifying section 5747.012 trust's taxable year, related persons of or to the qualifying section 5747.012 trust must, on each day of the investment pass-through entity's year, own directly, or own through equity investments in other pass-through entities, more than sixty per cent of the equity of the investment pass-through entity.

(B) "Qualifying section 5747.012 trust" means a trust satisfying one of the following:

(1) The trust was created prior to, and was irrevocable on, June 5, 2002;

or

(2) If the trust was created after June 4, 2002, or if the trust became irrevocable after June 4, 2002, then at least eighty per cent of the assets transferred to the trust must have been previously owned by related persons to the trust or by a trust created prior to June 5, 2002, under which the creator did not retain the power to change beneficiaries, amend the trust, or revoke the trust. For purposes of division (B)(2) of this section, the power to substitute property of equal value shall not be considered to be a power to change beneficiaries, amend the trust, or revoke the trust.

(C) For the purposes of this section, "related persons" means the family of a qualifying individual beneficiary, as defined in division (A)(5) of section 5747.011 of the Revised Code. For the purposes of this division, "family" has the same meaning as in division (A)(6) of section 5747.011 of the Revised Code.

(D) For the purposes of applying divisions (A)(2)(c), (A)(2)(d), and (B)(2) of this section, the related persons or the qualifying section 5747.012 trust, as the case may be, shall be deemed to own the equity of the investment pass-through entity after the application of division (B) of section 5747.011 of the Revised Code.

(E) "Irrevocable" has the same meaning as in division (D)(3)(b) of section 5747.01 of the Revised Code.

(F) Nothing in this section requires any item of income, gain, or loss not satisfying the definition of qualifying investment income to be treated as modified nonbusiness income. Any item of income, gain, or loss that is not qualifying investment income is modified business income, modified nonbusiness income, or a qualifying trust amount, as the case may be.

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, trust, and estate residing in or earning or receiving income in this state, on every individual, trust, and estate earning or receiving lottery winnings, prizes, or awards pursuant to Chapter 3770. of the Revised Code, and on every individual, trust, 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 Ohio 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; measured in the case of trusts by modified Ohio taxable income under division (D) of this section; and measured in the case of estates by Ohio taxable income. The tax imposed by this section on the balance thus obtained is hereby levied as follows:

OHIO ADJUSTED GROSS
INCOME LESS EXEMPTIONS
(INDIVIDUALS)
OR
MODIFIED OHIO
TAXABLE INCOME (TRUSTS)
OR

<u>OHIO</u> TAXABLE INCOME (ESTATES)	TAX
\$5,000 or less	.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 but not more than \$15,000	\$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 but not more than \$200,000	\$4,606.20 plus 6.9% of the amount in excess of \$100,000
More than \$200,000	\$11,506.20 plus 7.5% of the amount in excess of \$200,000

In July of each year, beginning in 2005, the tax commissioner shall adjust the income amounts prescribed in this division by multiplying the percentage increase in the gross domestic product deflator computed that year under section 5747.025 of the Revised Code by each of the income amounts resulting from the adjustment under this division in the preceding year, adding the resulting product to the corresponding income amount resulting from the adjustment in the preceding year, and rounding the resulting sum to the nearest multiple of fifty dollars. The tax commissioner also shall recompute each of the tax dollar amounts to the extent necessary to reflect the adjustment of the income amounts. The rates of taxation shall not be adjusted.

The adjusted amounts apply to taxable years beginning in the calendar year in which the adjustments are made. The tax commissioner shall not make such adjustments in any year in which the amount resulting from the adjustment would be less than the amount resulting from the adjustment in the preceding year.

(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.

~~(D) Division (D) of this section~~ This division applies only to taxable years of a trust beginning in 2002, 2003, or 2004.

(1) The tax imposed by this section on a trust shall be computed by multiplying the Ohio modified taxable income of the trust by the rates prescribed by division (A) of this section.

(2) A credit is allowed against the tax computed under division (D) of this section equal to the lesser of (1) the tax paid to another state or the District of Columbia on the trust's modified nonbusiness income of a trust, other than the portion of the trust's nonbusiness income that is qualifying investment income as defined in section 5747.012 of the Revised Code, or (2) the effective tax rate, based on modified Ohio taxable income, multiplied by the trust's modified nonbusiness income of the trust other than the portion of trust's nonbusiness income that is qualifying investment income. The credit applies before any other applicable credits. ~~The~~

(3) The credits enumerated in divisions (A)(1) to (13) of section 5747.98 of the Revised Code do not apply to a trust subject to this division. Any credits enumerated in other divisions of section 5747.98 of the Revised Code apply to a trust subject to this division. To the extent that the trust distributes income for the taxable year for which a credit is available to the trust, the credit shall be shared by the trust and its beneficiaries. The tax commissioner and the trust shall be guided by applicable regulations of the United States treasury regarding the sharing of credits.

(E) For the purposes of this section, "trust" means any trust described in Subchapter J of Chapter 1 of the Internal Revenue Code, excluding ~~a trust~~ trusts that are not irrevocable as defined in division (I)(3)(b) of section 5747.01 of the Revised Code and that have no modified Ohio taxable income for the taxable year, charitable remainder trusts, qualified funeral trusts, endowment and perpetual care trusts, qualified settlement trusts and funds, designated settlement trusts and funds, and trusts exempted from taxation under section 501(e)(3)(a) of the Internal Revenue Code.

Sec. 5747.231. As used in this section, "adjusted qualifying amount" has the same meaning as in section 5733.40 of the Revised Code.

This section does not apply to division (BB)(5)(a)(ii) of section 5747.01 of the Revised Code.

Except as set forth in this section and except as otherwise provided in

divisions (A) and (B) of section 5733.401 of the Revised Code, in making all apportionment, allocation, income, gain, loss, deduction, tax, and credit computations under this chapter, each person shall include in that person's items of business income, nonbusiness income, adjusted qualifying amounts, allocable income or loss, apportionable income or loss, property, compensation, and sales, the person's entire distributive share or proportionate share of the items of business income, nonbusiness income, adjusted qualifying amounts, allocable income or loss, apportionable income or loss, property, compensation, and sales of any pass-through entity in which the person has a direct or indirect ownership interest at any time during the person'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 business income, nonbusiness income, adjusted qualifying amounts, allocable income or loss, apportionable income or loss, property, compensation, and sales shall be included for the purposes of computing the person's distributive share or proportionate share of the pass-through entity's items of business income, nonbusiness income, adjusted qualifying amounts, 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. 5902.02. The duties of the director of the governor's office of veterans affairs shall include the following:

(A) Furnishing the veterans service commissions of all counties of the state copies of the state laws, rules, and legislation relating to the operation of the commissions and their offices;

(B) Upon application, assisting the general public in obtaining records of vital statistics pertaining to veterans or their dependents;

(C) Adopting rules pursuant to Chapter 119. of the Revised Code pertaining to minimum qualifications for hiring, certifying, and accrediting county veterans service officers and pertaining to their required duties;

(D) Adopting rules pursuant to Chapter 119. of the Revised Code for the education, training, certification, and duties of veterans service commissioners;

(E) Developing and monitoring programs and agreements enhancing employment and training for veterans in single or multiple county areas;

(F) Developing and monitoring programs and agreements to enable county veterans service commissions to address homelessness, indigency, and other veteran-related issues individually or jointly;

(G) Developing and monitoring programs and agreements to enable state agencies, individually or jointly, that provide services to veterans,

uding the ~~Ohio~~ veterans' ~~home~~ homes operated under Chapter 5907. of the Revised Code and the director of job and family services, to address homelessness, indigency, employment, and other veteran-related issues;

(H) Establishing and providing statistical reporting formats and procedures for county veterans service commissions;

(I) Publishing annually, promulgating change notices for, and distributing a listing of county veterans service officers, county veterans service commissioners, state directors of veterans affairs, and national and state service officers of accredited veterans organizations and their state headquarters. The listing shall include the expiration dates of commission members' terms of office and the organizations they represent; the names, addresses, and telephone numbers of county veterans service officers and state directors of veterans affairs; and the addresses and telephone numbers of the Ohio offices and headquarters of state and national veterans service organizations.

(J) Publishing, by the first day of April of each odd-numbered year, a directory of the laws of this state dealing with veterans, as enacted through the conclusion of the previous session of the general assembly, and distributing the publication to each county veterans service office and the state headquarters of each congressionally chartered veterans organization in the state;

(K) Establishing a veterans advisory committee to advise and assist the governor's office of veterans affairs in its duties. Members shall include a state representative of congressionally chartered veterans organizations referred to in section 5901.02 of the Revised Code, a representative of any other congressionally chartered state veterans organization that has at least one veterans service commissioner in the state, three representatives of the Ohio state association of county veterans service commissioners, who shall have a combined vote of one, three representatives of the state association of county veterans service officers, who shall have a combined vote of one, one representative of the county commissioners association of Ohio, who shall be a county commissioner not from the same county as any of the other county representatives, and a representative of the office of the attorney general. The governor's office of veterans affairs shall submit to the advisory committee proposed rules for the committee's operation. The committee may review and revise these proposed rules prior to submitting them to the joint committee on agency rule review.

(L) Adopting, with the advice and assistance of the veterans advisory committee, policy and procedural guidelines that the veterans service commissions shall adhere to in the development and implementation of

rules, policies, procedures, and guidelines for the administration of Chapter 5901. of the Revised Code. The governor's office of veterans affairs shall adopt no guidelines or rules regulating the purposes, scope, duration, or amounts of financial assistance provided to applicants pursuant to sections 5901.01 to 5901.15 of the Revised Code. The director of the governor's office of veterans affairs may obtain opinions from the office of the attorney general regarding rules, policies, procedures, and guidelines of the veterans service commissions and may enforce compliance with Chapter 5901. of the Revised Code.

(M) Receiving copies of form DD214 filed in accordance with the director's guidelines adopted under division (L) of this section from members of veterans service commissions appointed under section 5901.02 and from county veterans service officers employed under section 5901.07 of the Revised Code;

(N) Taking any other actions required by this chapter.

Sec. 5902.05. For the purpose of assisting veterans, the director of the governor's office of veterans affairs or ~~his~~ the director's representative shall visit ~~the Ohio~~ each veterans' home ~~at Sandusky operated under Chapter 5907. of the Revised Code~~ and the national military home at Dayton at least once every three months, and may visit other veterans facilities as necessary. At the discretion of the governor, the director of the governor's office of veterans affairs or ~~his~~ the director's representative shall visit the several governmental departments at Washington, D.C., or elsewhere, as may be necessary.

Sec. 5907.01. (A) As used in this chapter:

(1) "Nursing home" means a nursing home within a veterans' home.

(2) "Veterans' home" means a veterans' home operated by the Ohio veterans' home agency.

~~(B) There shall be an institution named the "Ohio veterans' home," which is hereby established the Ohio veterans' home agency that shall be a home maintain and operate veterans' and nursing homes for honorably discharged soldiers, sailors, and marines veterans.~~

Sec. 5907.02. The board of trustees of the Ohio veterans' home agency, ~~that which~~ is hereby created, shall consist of seven members who shall govern the agency and have charge and custody of the ~~home at Sandusky agency's facilities~~. The members shall be the director of administrative services or that director's designee, the director of aging or that director's designee, and five members who shall be appointed by the governor with the advice and consent of the senate. All the members of the board appointed by the governor shall be veterans of wars in which the United States has

participated, and not more than three of the members shall be of the same political party. The trustees shall serve without compensation, but they shall be allowed their actual expenses incurred in the discharge of their duties. Each year, the governor shall appoint one trustee. The term of office for each member of the board shall be for five years, commencing on the first day of July and ending on the thirtieth day of June. Each member shall hold office from the date of that 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 expiration of the term for which that member's predecessor was appointed shall hold office for the remainder of that term. Any member shall continue in office subsequent to the expiration date of that member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. The board shall govern, conduct, and care for ~~the home~~ veterans' homes, the property of the ~~home~~ homes, and the veterans residing in the ~~home~~ home.

Four members of the board constitute a quorum, but any three may approve the payment of current expenses, salaries, and open contracts previously entered into by the board.

All supplies for the ~~home~~ agency shall be purchased as provided in sections 125.04 to 125.15 of the Revised Code.

The board shall appoint a superintendent ~~for~~ of the Ohio veterans' home agency upon any terms that are proper, and the superintendent, with the advice and consent of the board, shall employ aides, assistants, and employees, and perform other duties that may be assigned to the superintendent by the board or become necessary in the carrying out of the superintendent's duties. The superintendent shall be responsible directly to the board.

Subject to section 5907.021 of the Revised Code, the superintendent ~~shall~~ may appoint one or more employees at each veterans' home as ~~Ohio~~ Ohio veterans' home police officers authorized to act on the grounds of ~~the~~ that home, ~~at the discretion of the superintendent~~. The superintendent shall provide to those employees a copy of the rules that apply to their appointment. The rules shall specify whether or not the police officers may carry a firearm.

Subject to section 5907.021 of the Revised Code, the superintendent shall appoint a chief of police ~~for~~ of the Ohio veterans' home agency, determine the number of officers and other personnel required by ~~the~~ each veterans' home, and establish salary schedules and other conditions of employment for ~~Ohio~~ Ohio veterans' ~~home~~ homes police officers. The chief of police shall serve at the pleasure of the superintendent and shall appoint

officers and other personnel as the ~~home~~ veterans' homes may require, subject to the rules and limits that the superintendent establishes regarding qualifications, salary ranges, and the number of personnel. The superintendent, with the approval of the board, may purchase or otherwise acquire any police apparatus, equipment, or materials, including a police communication system and vehicles, that ~~Ohio~~ the veterans' home ~~homes~~ police officers may require. The superintendent may send one or more of the officers or employees nominated by the police chief to a school of instruction designed to provide additional training or skills related to their work assignment at ~~the~~ their veterans' home. The superintendent may send those officers or employees to the Ohio peace officer training academy that the superintendent considers appropriate.

The board shall make an annual report to the governor as to all expenditures and as to the management of the Ohio veterans' home agency.

Sec. 5907.021. (A) As used in this section, "felony" has the same meaning as in section 109.511 of the Revised Code.

(B)(1) The superintendent of the Ohio veterans' home agency shall not appoint a person as a chief of police of the agency or an employee as ~~an~~ a Ohio veterans' home police officer on a permanent basis, on a temporary basis, for a probationary term, or on other than a permanent basis if the person or employee previously has been convicted of or has pleaded guilty to a felony.

(2)(a) The superintendent ~~of the Ohio veterans' home~~ shall terminate the employment of a chief of police or the employment as ~~an~~ a ~~Ohio~~ veterans' home police officer of an employee appointed as ~~an~~ a ~~Ohio~~ veterans' home police officer if that chief of police or employee does either of the following:

(i) Pleads guilty to a felony;

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated plea agreement as provided in division (D) of section 2929.29 of the Revised Code in which the chief of police or employee agrees to surrender the certificate awarded to that chief of police or employee under section 109.77 of the Revised Code.

(b) The superintendent shall suspend from employment a chief of police or from employment as ~~an~~ a ~~Ohio~~ veterans' home police officer an employee appointed as ~~an~~ a ~~Ohio~~ veterans' home police officer if that chief of police or employee is convicted, after trial, of a felony. If the chief of police or the employee files an appeal from that conviction and the conviction is upheld by the highest court to which the appeal is taken or if the chief of police or the employee does not file a timely appeal, the superintendent shall

terminate the employment of that chief of police or that employee as ~~an Ohio~~ a veterans' home police officer. If the chief of police or the employee files an appeal that results in that chief of police's or that employee's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against that chief of police or that employee, the superintendent shall reinstate that chief of police or that employee as ~~an Ohio~~ a veterans' home police officer. A chief of police or an employee who is reinstated as ~~an Ohio~~ a veterans' home police officer under division (B)(2)(b) of this section shall not receive any back pay unless the conviction of that chief of police or that employee of the felony was reversed on appeal, or the felony charge was dismissed, because the court found insufficient evidence to convict the chief of police or the employee of the felony.

(3) Division (B) of this section does not apply regarding an offense that was committed prior to January 1, 1997.

(4) The suspension from employment, or the termination of the employment, of a chief of police or ~~an Ohio~~ a veterans' home police officer under division (B)(2) of this section shall be in accordance with Chapter 119. of the Revised Code.

Sec. 5907.022. The board of trustees of the Ohio veterans' home agency may do either of the following to expand nursing home care and domiciliary services to veterans at sites other than the Ohio veterans' ~~home and the Robert T. Secrest homes and nursing home homes~~:

(A) Enter into contracts or agreements, including agreements for the acceptance of grants, to construct, lease, purchase, or otherwise acquire real property or facilities to establish a network of facilities;

(B) Enter into contracts with private providers.

Sec. 5907.023. Neither the Ohio veterans' home agency established by section 5907.01 of the Revised Code nor the board of trustees of the Ohio veterans' home agency created by section 5907.02 of the Revised Code is subject to sections 101.82 to 101.87 of the Revised Code.

Sec. 5907.03. The management and control of ~~the Ohio~~ veterans' ~~home~~ homes shall be subject to such inspection and supervision as the congress of the United States may require as a condition of making appropriations for ~~its~~ their maintenance. A person appointed or designated by congress may make such inspection and exercise such supervision, and, if so required by congress, ~~he~~ the person may have and exercise the privileges of a member of the board of trustees of the Ohio veterans' home agency.

Sec. 5907.04. All members of the armed forces, who served in the regular or volunteer forces of the United States or the Ohio national guard or members of the naval militia during the war with Spain, the Philippine

insurrection, the China relief expedition, the Indian war, the Mexican expedition, World War I, World War II, or during the period beginning June 25, 1950 and ending July 19, 1953, ~~said period being~~ known as the Korean conflict, or during the period beginning August 5, 1964, and ending July 1, 1973, ~~said period being~~ known as the Vietnam conflict, or any person who is awarded either the armed forces expeditionary medal established by presidential executive order 10977 dated December 4, 1961, or the Vietnam service medal established by presidential executive order 11231 dated July 8, 1965, who have been honorably discharged or separated under honorable conditions therefrom, or any discharged members of the Polish and Czechoslovakian armed forces who served in armed conflict with an enemy of the United States in World War I or World War II who have been citizens of the United States for at least ten years, provided that the above-mentioned persons have been citizens of ~~Ohio~~ this state for five consecutive years or more at the date of making application for admission, are disabled by disease, wounds, or otherwise, and are by reason of such disability incapable of earning their living, and all members of the Ohio national guard or naval militia who have lost an arm or leg, or their sight, or become permanently disabled from any cause, while in the line and discharge of duty, and are not able to support themselves, may be admitted to ~~the Ohio~~ a veterans' home under such rules as ~~its~~ the board of trustees of the Ohio veterans' home agency adopts.

The superintendent of the Ohio veterans' home agency shall promptly and diligently pursue the establishment of the eligibility for medical assistance under Chapter 5111. of the Revised Code of all persons admitted to ~~the a veterans'~~ home and all residents of ~~the a~~ home who appear to qualify and shall promptly and diligently pursue and maintain the certification of ~~the~~ each home's compliance with federal laws and regulations governing participation in the medical assistance program to include as large as possible a part of the home's bed capacity.

~~The Ohio veterans' home~~ Veterans' homes may reserve a bed during the temporary absence of a resident or patient from the home, including ~~The Robert T. Seerest~~ a nursing home within it, under conditions prescribed by the board of trustees ~~of the Ohio veterans' home~~, to include hospitalization for an acute condition, visits with relatives and friends, and participation in therapeutic programs outside the ~~facility~~ home. ~~The A~~ home shall not reserve a bed for more than thirty days, except that absences for more than thirty days due to hospitalization may be authorized.

Sec. 5907.05. In the admission to ~~the Ohio a~~ veterans' home of honorably discharged ~~soldiers, sailors, and marines~~ veterans who have

served the United States government, preference shall be given to those who served in Ohio military organizations.

Sec. 5907.06. An insane person shall not be admitted to ~~the Ohio~~ a veterans' home. In case ~~such an insane~~ such an insane person, through misrepresentation as to ~~his the person's~~ the person's condition, is sent to ~~the a~~ a home, ~~he the person~~ the person shall be returned to, and the expense ~~thereof of the return~~ thereof of the return shall be borne by, the county from which ~~he the person~~ the person came.

Sec. 5907.07. When a veteran is entitled to admission into ~~the Ohio~~ a veterans' home, the ~~chairman~~ chairperson of the veterans service commission of the county in which ~~such the~~ the veteran resides, upon application, may furnish ~~him the veteran~~ the veteran transportation to the home by the most direct route from ~~his the veteran's~~ the veteran's residence. ~~Such The~~ The transportation shall be paid from the veterans service commission fund of the county.

Sec. 5907.08. When a resident of ~~the Ohio~~ a veterans' home becomes insane, the ~~commandant~~ superintendent of the Ohio veterans' home agency shall file with the probate judge of the county in which the home is located substantially the following affidavit:

"The State of Ohio, county, ss., ~~commandant~~ superintendent of the Ohio veterans' home agency, being duly sworn, says that the ~~commandant~~ superintendent believes that, a resident of the veterans' home located in county, is insane; that, in consequence of the resident's insanity, the resident's being at large is dangerous to the community, and that the resident was received into the home from county, on the day of,

.....A.B."

Sec. 5907.09. When the affidavit referred to in section 5907.08 of the Revised Code is filed, the probate judge shall forthwith determine the sanity of ~~such the~~ the resident, ~~and, as far~~ Insofar as applicable, the laws governing in cases of admission to a state hospital for the insane shall apply. The probate judge shall have the same authority, and may receive and order paid the same fees and costs, as the probate judge would have in the county in which ~~such the~~ the veteran was a resident at the time of entering the ~~Ohio~~ veterans' home.

Sec. 5907.10. (A) The Ohio veterans' home agency shall maintain and operate a nursing home as part of each veterans' home for the benefit of ~~soldiers, sailors, and marines~~ honorably discharged veterans admitted to ~~the institution a veterans' home~~ a veterans' home under this chapter, ~~a nursing home to be known as "The Robert T. Seerest Nursing Home."~~ The Robert T. Seerest nursing home is homes are subject to sections 3721.01 to 3721.09 and 3721.99 of the Revised Code.

(B) The nursing home within the veterans' home located in Sandusky shall be known as "The Robert T. Secrest Nursing Home."

Sec. 5907.11. (A) The superintendent of the Ohio veterans' home agency, with the approval of the board of trustees of the ~~home~~ agency, may establish a local fund for each veterans' home to be used for the entertainment and welfare of the residents of the home. ~~The~~ Each fund shall be designated as the residents' benefit fund and shall be operated for the exclusive benefit of the residents of the associated home. ~~The~~ Each fund shall receive all revenue from the sale of commissary items at the associated home and shall receive all moneys received as donations by the associated home from any source.

(B) The residents' benefit ~~fund~~ funds also may be used to receive and disburse any donations made for events sponsored by the Ohio veterans hall of fame.

(C) The superintendent, subject to the approval of the board of trustees, shall establish rules for the operation of the residents' benefit ~~fund~~ funds.

Sec. 5907.12. The board of trustees of the Ohio veterans' home agency may utilize the services of volunteers to assist in attending to and caring for residents, assisting in resident activities, caring for ~~the home's~~ veterans' homes' buildings and grounds, and participating in any other services that accomplish any of the board's purposes. All volunteer programs are subject to the board's approval. The board may recruit, train, and supervise the services of community volunteers or volunteer groups for volunteer programs. The board may designate volunteers as state employees for the purpose of motor vehicle accident liability insurance under section 9.83 of the Revised Code and for the purpose of indemnification from liability incurred in the performance of their duties under section 9.87 of the Revised Code.

Sec. 5907.13. Residents of ~~the Ohio~~ veterans' ~~home~~ homes may be assessed a fee to pay a portion of the expenses of their support, dependent upon their ability to pay. Subject to controlling board approval, the board of trustees of the Ohio veterans' home agency shall adopt rules for determining a resident's ability to pay. Each resident shall furnish the board of trustees statements of income, assets, debts, and expenses that the board requires.

All fees contributed by the residents under this section shall be deposited into an interest-bearing account in a public depository in accordance with section 135.18 of the Revised Code. All of these fees shall be paid to the treasurer of state within thirty days after the end of the month of receipt, together with all interest credited to the account to date. The treasurer of state shall credit eighty per cent of these fees and of this interest

to the Ohio veterans' ~~home~~ homes operating fund and twenty per cent of these fees and of this interest to the Ohio veterans' ~~home~~ homes fund.

The fee for each resident shall be based upon the level of care provided to the resident by the resident's home. The board of trustees shall determine authorized levels of care for residents. The assessment for each resident shall not exceed the difference between the total per diem amount collected by the state for maintenance from all sources on the resident's behalf and the average annual per diem cost for the resident's maintenance, computed in accordance with veterans administration regulations.

Sec. 5907.131. There is hereby created in the state treasury the Ohio veterans' ~~home~~ homes operating fund, in which shall be placed the fee and interest revenue credited to it under section 5907.13 of the Revised Code. The fund shall be used for paying the operating costs of ~~the Ohio~~ veterans' ~~home~~ homes.

Sec. 5907.14. There is hereby created in the state treasury the Ohio veterans' ~~home~~ homes fund, to which shall be credited the fee and interest revenue specified in section 5907.13 of the Revised Code. The fund shall be used only for the following purposes:

(A) Paying the cost of capital facilities or equipment purchases for ~~the Ohio~~ veterans' ~~home~~ homes;

(B) Participation in capital facilities for ~~the Ohio~~ veterans' ~~home~~ homes with the federal government, municipal corporations, counties, or other governmental agencies.

Sec. 5907.141. (A) All money received from the United States department of veterans affairs in per diem grants for care that ~~the Ohio~~ veterans' ~~home~~ provides homes provide shall be deposited in the state treasury to the credit of the Ohio veterans' ~~home~~ homes federal grant fund, which is hereby created. Money credited to the fund shall be used only for the operating costs of ~~the Ohio~~ veterans' ~~home~~ homes.

(B) Any resident of ~~the Ohio~~ a veterans' home whom the United States department of veterans affairs determines to have excess income or assets, therefore rendering the home ineligible to collect per diem grant reimbursement for days of care provided to that resident, ~~is~~ may be required to pay, in addition to the fees assessed under section 5907.13 of the Revised Code, an amount equal to the rate of per diem grant that the department denied for that particular resident. Any amount that the resident pays under this division shall be collected and distributed in the same manner as the fees assessed under section 5907.13 of the Revised Code.

Sec. 5907.15. There is hereby created in the state treasury the Ohio veterans' ~~home~~ homes rental, service, and medicare reimbursement fund.

Revenue generated from temporary use agreements of ~~the a~~ a veterans' home, from the sale of meals at ~~the a~~ a home's dining halls, from rental, lease, or sharing agreements for the use of facilities, supplies, equipment, utilities, or services provided by ~~the a~~ a home, and from medicare reimbursements shall be credited to the fund. The fund shall be used only for maintenance costs of the ~~home~~ homes and for the purchase of medications, medical supplies, and medical equipment by the ~~home~~ homes.

Sec. 6103.02. (A) For the purpose of preserving and promoting the public health and welfare, a board of county commissioners may acquire, construct, maintain, and operate any public water supply facilities within its county for one or more sewer districts and may provide for their protection and prevent their pollution and unnecessary waste. The board may negotiate and enter into a contract with any public agency or any person for the management, maintenance, operation, and repair of the facilities on behalf of the county, upon the terms and conditions as may be agreed upon with the agency or person and as may be determined by the board to be in the interests of the county. By contract with any public agency or any person operating public water supply facilities within or without its county, the board also may provide a supply of water to a sewer district from the facilities of the public agency or person.

(B) The county sanitary engineer or sanitary engineering department, in addition to other assigned duties, shall assist the board in the performance of its duties under this chapter and shall be charged with other duties and services in relation to the board's duties as the board prescribes.

(C) The board may adopt, publish, administer, and enforce rules for the construction, maintenance, protection, and use of county-owned or county-operated public water supply facilities outside municipal corporations and of public water supply facilities within municipal corporations that are owned or operated by the county or that are supplied with water from water supply facilities owned or operated by the county, including, but not limited to, rules for the establishment and use of any connections, the termination in accordance with reasonable procedures of water service for nonpayment of county water rates and charges, and the establishment and use of security deposits to the extent considered necessary to ensure the payment of county water rates and charges. The rules shall not be inconsistent with the laws of the state or any applicable rules of the director of environmental protection.

(D) No public water supply facilities shall be constructed in any county outside municipal corporations by any person, except for the purpose of supplying water to those municipal corporations, until the plans and

specifications for the facilities have been approved by the board. Construction shall be done under the supervision of the county sanitary engineer. Any person constructing public water supply facilities shall pay to the county all expenses incurred by the board in connection with the construction.

(E) The county sanitary engineer or the county sanitary engineer's authorized assistants or agents, when properly identified in writing or otherwise and after written notice is delivered to the owner at least five days in advance or mailed at least five days in advance by first class or certified mail to the owner's tax mailing address, may enter upon any public or private property for the purpose of making, and may make, surveys or inspections necessary for the design or evaluation of county public water supply facilities. This entry is not a trespass and is not to be considered an entry in connection with any appropriation of property proceedings under sections 163.01 to 163.22 of the Revised Code that may be pending. No person or public agency shall forbid the county sanitary engineer or the county sanitary engineer's authorized assistants or agents to enter, or interfere with their entry, upon the property for the purpose of making the surveys or inspections. If actual damage is done to property by the making of the surveys or inspections, the board shall pay the reasonable value of the damage to the property owner, and the cost shall be included in the cost of the facilities and may be included in any special assessments levied and collected to pay that cost.

(F) The board shall fix reasonable rates, including penalties for late payments, for water supplied to public agencies and persons when the source of supply or the facilities for its distribution are owned or operated by the county and may change the rates from time to time as it considers advisable. When the source of the water supply to be used by the county is owned by another public agency or person, the schedule of rates to be charged by the public agency or person shall be approved by the board at the time it enters into a contract for the use of water from the public agency or person. When the distribution facilities are owned by the county, the board also may fix reasonable charges to be collected for the privilege of connecting to the distribution facilities and may require that, prior to the connection, the charges be paid in full or, if determined by the board to be equitable in a resolution relating to the payment of the charges, may require their payment in installments, as considered adequate by the board, at the times, in the amounts, and with the security, carrying charges, and penalties as may be determined by the board in that resolution to be fair and appropriate. No public agency or person shall be permitted to connect to

those facilities until the charges have been paid in full or provision for their payment in installments has been made. If the connection charges are to be paid in installments, the board shall certify, to the county auditor, information sufficient to identify each parcel of property served by a connection and, with respect to each parcel, the total of the charges to be paid in installments, the amount of each installment, and the total number of installments to be paid. The county auditor shall record and maintain the information so supplied in the waterworks record provided for in section 6103.16 of the Revised Code until the connection charges are paid in full. The board may include amounts attributable to connection charges being paid in installments in its billings of rates and other charges for water supplied. In addition, the board may consider payments made to a school district under section 6103.25 of the Revised Code when the board establishes rates and other charges for water supplied.

(G) When any rates or charges are not paid when due, the board may do any or all of the following:

(1) Certify the unpaid rates or charges, together with any penalties, to the county auditor. The county auditor shall place the certified amount upon the real property tax list and duplicate against the property served by the connection. The certified amount shall be a lien on the property from the date placed on the real property tax list and duplicate and shall be collected in the same manner as taxes, except that, notwithstanding section 323.15 of the Revised Code, a county treasurer shall accept a payment in that amount when separately tendered as payment for the full amount of the unpaid rates or charges and associated penalties. The lien shall be released immediately upon payment in full of the certified amount.

(2) Collect the unpaid rates or charges, together with any penalties, by actions at law in the name of the county from an owner, tenant, or other person or public agency that is liable for the payment of the rates or charges;

(3) Terminate, in accordance with established rules, the water service to the particular property unless and until the unpaid rates or charges, together with any penalties, are paid in full;

(4) Apply, to the extent required, any security deposit made in accordance with established rules to the payment of the unpaid rates and charges, together with any penalties, for water service to the particular property.

All moneys collected as rates, charges, or penalties fixed or established in accordance with division (F) of this section for water supply purposes in or for any sewer district shall be paid to the county treasurer and kept in a separate and distinct water fund established by the board to the credit of the

district.

Each board that fixes water rates or charges may render estimated bills periodically, provided that at least quarterly it shall schedule an actual reading of each customer's meter so as to render a bill for the actual amount shown by the meter reading to be due, with credit for prior payments of any estimated bills submitted for any part of the billing period, except that estimated bills may be rendered if a customer's meter is not accessible for a timely reading or if the circumstances preclude a scheduled reading. Each board also shall establish procedures providing a fair and reasonable opportunity for the resolution of billing disputes.

When property to which water service is provided is about to be sold, any party to the sale or an agent of a party may request the board to have the meter at that property read and to render, within ten days following the date on which the request is made, a final bill for all outstanding rates and charges for water service. The request shall be made at least fourteen days prior to the transfer of the title of the property.

At any time prior to a certification under division (G)(1) of this section, the board shall accept any partial payment of unpaid water rates or charges in the amount of ten dollars or more.

Except as otherwise provided in any proceedings authorizing or providing for the security for and payment of any public obligations, or in any indenture or trust or other agreement securing public obligations, moneys in the water fund shall be applied first to the payment of the cost of the management, maintenance, and operation of the water supply facilities of, or used or operated for, the sewer district, which cost may include the county's share of management, maintenance, and operation costs under cooperative contracts for the acquisition, construction, or use of water supply facilities and, in accordance with a cost allocation plan adopted under division (H) of this section, payment of all allowable direct and indirect costs of the district, the county sanitary engineer or sanitary engineering department, or a federal or state grant program, incurred for the purposes of this chapter, and shall be applied second to the payment of debt charges payable on any outstanding public obligations issued or incurred for the acquisition or construction of water supply facilities for or serving the district, or for the funding of a bond retirement or other fund established for the payment of or security for the obligations. Any surplus remaining may be applied to the acquisition or construction of those facilities or for the payment of contributions to be made, or costs incurred, for the acquisition or construction of those facilities under cooperative contracts. Moneys in the water fund shall not be expended other than for the use and benefit of the

district.

(H) A board of county commissioners may adopt a cost allocation plan that identifies, accumulates, and distributes allowable direct and indirect costs that may be paid from the water fund of the sewer district created pursuant to division (G) of this section, and that prescribes methods for allocating those costs. The plan shall authorize payment from the fund of only those costs incurred by the district, the county sanitary engineer or sanitary engineering department, or a federal or state grant program, and those costs incurred by the general and other funds of the county for a common or joint purpose, that are necessary and reasonable for the proper and efficient administration of the district under this chapter. The plan shall not authorize payment from the fund of any general government expense required to carry out the overall governmental responsibilities of a county. The plan shall conform to United States office of management and budget Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments," published ~~15~~ May 17, 1995.

Sec. 6103.25. Whenever, in the opinion of the board of county commissioners, it is necessary to acquire real estate or any interest in real estate for the acquisition, construction, maintenance, or operation of any water supply facilities authorized by this chapter, or to acquire the right to acquire, construct, maintain, and operate those facilities in and upon any property within or outside of a county sewer district, it may purchase the real estate, interest in real estate, or right by negotiation. If the board and the owner of the real estate, interest in real estate, or right are unable to agree upon its purchase and sale, or the amount of damages to be awarded for it, the board may appropriate the real estate, interest, or right in accordance with sections 163.01 to 163.22 of the Revised Code, except that the board, in the exercise of the powers granted by this section or any other section of this chapter, may not appropriate real estate or personal property owned by a municipal corporation.

If the board purchases or appropriates real estate, an interest in real estate, or a right pursuant to this section and the real estate, interest in real estate, or right was subject to real or personal property taxes prior to the purchase or appropriation, the board may make payments to a school district of all or a portion of the amount of the taxes that otherwise would have been received by the district if the purchase or appropriation had not occurred. The payments shall be authorized by a resolution adopted by the board.

As used in this section, "school district" means a "city school district" as defined in section 3311.02 of the Revised Code, a "local school district" as defined in section 3311.03 of the Revised Code, an "exempted village

school district" as defined in section 3311.04 of the Revised Code, and a "joint vocational school district" as defined in section 3311.18 of the Revised Code.

SECTION 1.02. That existing sections 102.02, 109.71, 109.77, 122.171, 123.024, 123.10, 124.381, 124.82, 133.20, 145.01, 145.012, 145.33, 151.01, 151.40, 152.09, 152.10, 166.01, 166.02, 166.03, 166.04, 166.05, 166.06, 166.07, 166.08, 166.11, 183.021, 183.19, 183.30, 307.23, 715.02, 1565.351, 1565.04, 1565.15, 1711.11, 1711.53, 2113.031, 2901.01, 2921.51, 2935.01, 2935.03, 2935.031, 3318.01, 3318.011, 3318.03, 3318.031, 3318.032, 3318.033, 3318.042, 3318.08, 3318.084, 3318.086, 3318.10, 3318.12, 3318.15, 3318.19, 3318.25, 3318.26, 3318.311, 3318.36, 3354.16, 3355.12, 3357.16, 3383.01, 3383.02, 3383.03, 3519.04, 3702.5210, 3702.5211, 3702.5213, 3721.01, 3737.71, 4117.01, 4117.14, 4123.01, 4123.35, 4582.03, 4582.20, 4582.27, 4582.30, 4582.46, 5709.61, 5715.20, 5717.01, 5731.21, 5733.021, 5733.26, 5733.40, 5733.401, 5739.031, 5747.01, 5747.02, 5902.02, 5902.05, 5907.01, 5907.02, 5907.021, 5907.022, 5907.03, 5907.04, 5907.05, 5907.06, 5907.07, 5907.08, 5907.09, 5907.10, 5907.11, 5907.12, 5907.13, 5907.131, 5907.14, 5907.141, 5907.15, 6103.02, and 6103.25 and section 5747.231 of the Revised Code are hereby repealed.

SECTION 1.03. Sections 183.20, 183.21, 183.22, 183.23, 183.24, and 183.25 of the Revised Code are hereby repealed, effective July 1, 2003.

SECTION 1.04. That the version of section 2935.03 of the Revised Code that is scheduled to take effect January 1, 2004, be amended to read as follows:

Sec. 2935.03. (A)(1) A sheriff, deputy sheriff, marshal, deputy marshal, municipal police officer, township constable, police officer of a township or joint township police district, member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code, state university law enforcement officer appointed under section 3345.04 of the Revised Code, ~~Ohio~~ veterans' home police officer appointed under section 5907.02 of the Revised Code, or special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code shall arrest and detain, until a warrant can be obtained, a person found violating, within

the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, college, university, ~~Ohio~~ veterans' home operated under Chapter 5907. of the Revised Code, or port authority in which the peace officer is appointed, employed, or elected, a law of this state, an ordinance of a municipal corporation, or a resolution of a township.

(2) A peace officer of the department of natural resources or an individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the peace officer's or individual's territorial jurisdiction, a law of this state.

(3) The house sergeant at arms if the house sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code and an assistant house sergeant at arms shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the sergeant at arms's or assistant sergeant at arms's territorial jurisdiction specified in division (D)(1)(a) of section 101.311 of the Revised Code or while providing security pursuant to division (D)(1)(f) of section 101.311 of the Revised Code, a law of this state, an ordinance of a municipal corporation, or a resolution of a township.

(B)(1) When there is reasonable ground to believe that an offense of violence, the offense of criminal child enticement as defined in section 2905.05 of the Revised Code, the offense of public indecency as defined in section 2907.09 of the Revised Code, the offense of domestic violence as defined in section 2919.25 of the Revised Code, the offense of violating a protection order as defined in section 2919.27 of the Revised Code, the offense of menacing by stalking as defined in section 2903.211 of the Revised Code, the offense of aggravated trespass as defined in section 2911.211 of the Revised Code, a theft offense as defined in section 2913.01 of the Revised Code, or a felony drug abuse offense as defined in section 2925.01 of the Revised Code, has been committed within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, college, university, ~~Ohio~~ veterans' home operated under Chapter 5907. of the Revised Code, or port authority in which the peace officer is appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer, a peace

officer described in division (A) of this section may arrest and detain until a warrant can be obtained any person who the peace officer has reasonable cause to believe is guilty of the violation.

(2) For purposes of division (B)(1) of this section, the execution of any of the following constitutes reasonable ground to believe that the offense alleged in the statement was committed and reasonable cause to believe that the person alleged in the statement to have committed the offense is guilty of the violation:

(a) A written statement by a person alleging that an alleged offender has committed the offense of menacing by stalking or aggravated trespass;

(b) A written statement by the administrator of the interstate compact on mental health appointed under section 5119.51 of the Revised Code alleging that a person who had been hospitalized, institutionalized, or confined in any facility under an order made pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code has escaped from the facility, from confinement in a vehicle for transportation to or from the facility, or from supervision by an employee of the facility that is incidental to hospitalization, institutionalization, or confinement in the facility and that occurs outside of the facility, in violation of section 2921.34 of the Revised Code;

(c) A written statement by the administrator of any facility in which a person has been hospitalized, institutionalized, or confined under an order made pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code alleging that the person has escaped from the facility, from confinement in a vehicle for transportation to or from the facility, or from supervision by an employee of the facility that is incidental to hospitalization, institutionalization, or confinement in the facility and that occurs outside of the facility, in violation of section 2921.34 of the Revised Code.

(3)(a) For purposes of division (B)(1) of this section, a peace officer described in division (A) of this section has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that a particular person is guilty of committing the offense if any of the following occurs:

(i) A person executes a written statement alleging that the person in question has committed the offense of domestic violence or the offense of violating a protection order against the person who executes the statement or against a child of the person who executes the statement.

(ii) No written statement of the type described in division (B)(3)(a)(i) of this section is executed, but the peace officer, based upon the peace officer's

own knowledge and observation of the facts and circumstances of the alleged incident of the offense of domestic violence or the alleged incident of the offense of violating a protection order or based upon any other information, including, but not limited to, any reasonably trustworthy information given to the peace officer by the alleged victim of the alleged incident of the offense or any witness of the alleged incident of the offense, concludes that there are reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that the person in question is guilty of committing the offense.

(iii) No written statement of the type described in division (B)(3)(a)(i) of this section is executed, but the peace officer witnessed the person in question commit the offense of domestic violence or the offense of violating a protection order.

(b) If pursuant to division (B)(3)(a) of this section a peace officer has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that a particular person is guilty of committing the offense, it is the preferred course of action in this state that the officer arrest and detain that person pursuant to division (B)(1) of this section until a warrant can be obtained.

If pursuant to division (B)(3)(a) of this section a peace officer has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that family or household members have committed the offense against each other, it is the preferred course of action in this state that the officer, pursuant to division (B)(1) of this section, arrest and detain until a warrant can be obtained the family or household member who committed the offense and whom the officer has reasonable cause to believe is the primary physical aggressor. There is no preferred course of action in this state regarding any other family or household member who committed the offense and whom the officer does not have reasonable cause to believe is the primary physical aggressor, but, pursuant to division (B)(1) of this section, the peace officer may arrest and detain until a warrant can be obtained any other family or household member who committed the offense and whom the officer does not have reasonable cause to believe is the primary physical aggressor.

(c) If a peace officer described in division (A) of this section does not arrest and detain a person whom the officer has reasonable cause to believe committed the offense of domestic violence or the offense of violating a

protection order when it is the preferred course of action in this state pursuant to division (B)(3)(b) of this section that the officer arrest that person, the officer shall articulate in the written report of the incident required by section 2935.032 of the Revised Code a clear statement of the officer's reasons for not arresting and detaining that person until a warrant can be obtained.

(d) In determining for purposes of division (B)(3)(b) of this section which family or household member is the primary physical aggressor in a situation in which family or household members have committed the offense of domestic violence or the offense of violating a protection order against each other, a peace officer described in division (A) of this section, in addition to any other relevant circumstances, should consider all of the following:

(i) Any history of domestic violence or of any other violent acts by either person involved in the alleged offense that the officer reasonably can ascertain;

(ii) If violence is alleged, whether the alleged violence was caused by a person acting in self-defense;

(iii) Each person's fear of physical harm, if any, resulting from the other person's threatened use of force against any person or resulting from the other person's use or history of the use of force against any person, and the reasonableness of that fear;

(iv) The comparative severity of any injuries suffered by the persons involved in the alleged offense.

(e)(i) A peace officer described in division (A) of this section shall not require, as a prerequisite to arresting or charging a person who has committed the offense of domestic violence or the offense of violating a protection order, that the victim of the offense specifically consent to the filing of charges against the person who has committed the offense or sign a complaint against the person who has committed the offense.

(ii) If a person is arrested for or charged with committing the offense of domestic violence or the offense of violating a protection order and if the victim of the offense does not cooperate with the involved law enforcement or prosecuting authorities in the prosecution of the offense or, subsequent to the arrest or the filing of the charges, informs the involved law enforcement or prosecuting authorities that the victim does not wish the prosecution of the offense to continue or wishes to drop charges against the alleged offender relative to the offense, the involved prosecuting authorities, in determining whether to continue with the prosecution of the offense or whether to dismiss charges against the alleged offender relative to the

offense and notwithstanding the victim's failure to cooperate or the victim's wishes, shall consider all facts and circumstances that are relevant to the offense, including, but not limited to, the statements and observations of the peace officers who responded to the incident that resulted in the arrest or filing of the charges and of all witnesses to that incident.

(f) In determining pursuant to divisions (B)(3)(a) to (g) of this section whether to arrest a person pursuant to division (B)(1) of this section, a peace officer described in division (A) of this section shall not consider as a factor any possible shortage of cell space at the detention facility to which the person will be taken subsequent to the person's arrest or any possibility that the person's arrest might cause, contribute to, or exacerbate overcrowding at that detention facility or at any other detention facility.

(g) If a peace officer described in division (A) of this section intends pursuant to divisions (B)(3)(a) to (g) of this section to arrest a person pursuant to division (B)(1) of this section and if the officer is unable to do so because the person is not present, the officer promptly shall seek a warrant for the arrest of the person.

(h) If a peace officer described in division (A) of this section responds to a report of an alleged incident of the offense of domestic violence or an alleged incident of the offense of violating a protection order and if the circumstances of the incident involved the use or threatened use of a deadly weapon or any person involved in the incident brandished a deadly weapon during or in relation to the incident, the deadly weapon that was used, threatened to be used, or brandished constitutes contraband, and, to the extent possible, the officer shall seize the deadly weapon as contraband pursuant to section 2933.43 of the Revised Code. Upon the seizure of a deadly weapon pursuant to division (B)(3)(h) of this section, section 2933.43 of the Revised Code shall apply regarding the treatment and disposition of the deadly weapon. For purposes of that section, the "underlying criminal offense" that was the basis of the seizure of a deadly weapon under division (B)(3)(h) of this section and to which the deadly weapon had a relationship is any of the following that is applicable:

(i) The alleged incident of the offense of domestic violence or the alleged incident of the offense of violating a protection order to which the officer who seized the deadly weapon responded;

(ii) Any offense that arose out of the same facts and circumstances as the report of the alleged incident of the offense of domestic violence or the alleged incident of the offense of violating a protection order to which the officer who seized the deadly weapon responded.

(4) If, in the circumstances described in divisions (B)(3)(a) to (g) of this

section, a peace officer described in division (A) of this section arrests and detains a person pursuant to division (B)(1) of this section, or if, pursuant to division (B)(3)(h) of this section, a peace officer described in division (A) of this section seizes a deadly weapon, the officer, to the extent described in and in accordance with section 9.86 or 2744.03 of the Revised Code, is immune in any civil action for damages for injury, death, or loss to person or property that arises from or is related to the arrest and detention or the seizure.

(C) When there is reasonable ground to believe that a violation of division (A)(1), (2), or (3) of section 4506.15 or a violation of section 4511.19 of the Revised Code has been committed by a person operating a motor vehicle subject to regulation by the public utilities commission of Ohio under Title XLIX of the Revised Code, a peace officer with authority to enforce that provision of law may stop or detain the person whom the officer has reasonable cause to believe was operating the motor vehicle in violation of the division or section and, after investigating the circumstances surrounding the operation of the vehicle, may arrest and detain the person.

(D) If a sheriff, deputy sheriff, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code, special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code, township constable, police officer of a township or joint township police district, state university law enforcement officer appointed under section 3345.04 of the Revised Code, peace officer of the department of natural resources, individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code, the house sergeant at arms if the house sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code, or an assistant house sergeant at arms is authorized by division (A) or (B) of this section to arrest and detain, within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, port authority, college, or university in which the officer is appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer, a person until a warrant can be obtained, the peace officer, outside the limits of that territory, may pursue, arrest, and detain that person until a warrant can be obtained if all of the

following apply:

(1) The pursuit takes place without unreasonable delay after the offense is committed;

(2) The pursuit is initiated within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, port authority, college, or university in which the peace officer is appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer;

(3) The offense involved is a felony, a misdemeanor of the first degree or a substantially equivalent municipal ordinance, a misdemeanor of the second degree or a substantially equivalent municipal ordinance, or any offense for which points are chargeable pursuant to section 4510.036 of the Revised Code.

(E) In addition to the authority granted under division (A) or (B) of this section:

(1) A sheriff or deputy sheriff may arrest and detain, until a warrant can be obtained, any person found violating section 4503.11, 4503.21, or 4549.01, sections 4549.08 to 4549.12, section 4549.62, or Chapter 4511. or 4513. of the Revised Code on the portion of any street or highway that is located immediately adjacent to the boundaries of the county in which the sheriff or deputy sheriff is elected or appointed.

(2) A member of the police force of a township police district created under section 505.48 of the Revised Code, a member of the police force of a joint township police district created under section 505.481 of the Revised Code, or a township constable appointed in accordance with section 509.01 of the Revised Code, who has received a certificate from the Ohio peace officer training commission under section 109.75 of the Revised Code, may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section, other than sections 4513.33 and 4513.34 of the Revised Code, on the portion of any street or highway that is located immediately adjacent to the boundaries of the township police district or joint township police district, in the case of a member of a township police district or joint township police district police force, or the unincorporated territory of the township, in the case of a township constable. However, if the population of the township that created the township police district served by the member's police force, or the townships that created the joint township police district served by the member's police force, or the township that is

served by the township constable, is sixty thousand or less, the member of the township police district or joint police district police force or the township constable may not make an arrest under division (E)(2) of this section on a state highway that is included as part of the interstate system.

(3) A police officer or village marshal appointed, elected, or employed by a municipal corporation may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section on the portion of any street or highway that is located immediately adjacent to the boundaries of the municipal corporation in which the police officer or village marshal is appointed, elected, or employed.

(4) A peace officer of the department of natural resources or an individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section, other than sections 4513.33 and 4513.34 of the Revised Code, on the portion of any street or highway that is located immediately adjacent to the boundaries of the lands and waters that constitute the territorial jurisdiction of the peace officer.

(F)(1) A department of mental health special police officer or a department of mental retardation and developmental disabilities special police officer may arrest without a warrant and detain until a warrant can be obtained any person found committing on the premises of any institution under the jurisdiction of the particular department a misdemeanor under a law of the state.

A department of mental health special police officer or a department of mental retardation and developmental disabilities special police officer may arrest without a warrant and detain until a warrant can be obtained any person who has been hospitalized, institutionalized, or confined in an institution under the jurisdiction of the particular department pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code and who is found committing on the premises of any institution under the jurisdiction of the particular department a violation of section 2921.34 of the Revised Code that involves an escape from the premises of the institution.

(2)(a) If a department of mental health special police officer or a department of mental retardation and developmental disabilities special police officer finds any person who has been hospitalized, institutionalized, or confined in an institution under the jurisdiction of the particular

department pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code committing a violation of section 2921.34 of the Revised Code that involves an escape from the premises of the institution, or if there is reasonable ground to believe that a violation of section 2921.34 of the Revised Code has been committed that involves an escape from the premises of an institution under the jurisdiction of the department of mental health or the department of mental retardation and developmental disabilities and if a department of mental health special police officer or a department of mental retardation and developmental disabilities special police officer has reasonable cause to believe that a particular person who has been hospitalized, institutionalized, or confined in the institution pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code is guilty of the violation, the special police officer, outside of the premises of the institution, may pursue, arrest, and detain that person for that violation of section 2921.34 of the Revised Code, until a warrant can be obtained, if both of the following apply:

(i) The pursuit takes place without unreasonable delay after the offense is committed;

(ii) The pursuit is initiated within the premises of the institution from which the violation of section 2921.34 of the Revised Code occurred.

(b) For purposes of division (F)(2)(a) of this section, the execution of a written statement by the administrator of the institution in which a person had been hospitalized, institutionalized, or confined pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code alleging that the person has escaped from the premises of the institution in violation of section 2921.34 of the Revised Code constitutes reasonable ground to believe that the violation was committed and reasonable cause to believe that the person alleged in the statement to have committed the offense is guilty of the violation.

(G) As used in this section:

(1) A "department of mental health special police officer" means a special police officer of the department of mental health designated under section 5119.14 of the Revised Code who is certified by the Ohio peace officer training commission under section 109.77 of the Revised Code as having successfully completed an approved peace officer basic training program.

(2) A "department of mental retardation and developmental disabilities

special police officer" means a special police officer of the department of mental retardation and developmental disabilities designated under section 5123.13 of the Revised Code who is certified by the Ohio peace officer training council under section 109.77 of the Revised Code as having successfully completed an approved peace officer basic training program.

(3) "Deadly weapon" has the same meaning as in section 2923.11 of the Revised Code.

(4) "Family or household member" has the same meaning as in section 2919.25 of the Revised Code.

(5) "Street" or "highway" has the same meaning as in section 4511.01 of the Revised Code.

(6) "Interstate system" has the same meaning as in section 5516.01 of the Revised Code.

(7) "Peace officer of the department of natural resources" means an employee of the department of natural resources who is a natural resources law enforcement staff officer designated pursuant to section 1501.013, a forest officer designated pursuant to section 1503.29, a preserve officer designated pursuant to section 1517.10, a wildlife officer designated pursuant to section 1531.13, a park officer designated pursuant to section 1541.10, or a state watercraft officer designated pursuant to section 1547.521 of the Revised Code.

SECTION 1.05. That the existing version of section 2935.03 of the Revised Code that is scheduled to take effect January 1, 2004, is hereby repealed.

SECTION 1.06. Sections 1.04 and 1.05 of this act shall take effect January 1, 2004.

SECTION 1.07. That the versions of sections 5739.026 and 5739.033 of the Revised Code that are scheduled to take effect July 1, 2003, be amended to read as follows:

Sec. 5739.026. (A) A board of county commissioners may levy a tax of one-fourth or one-half of one per cent on every retail sale in the county, except sales of watercraft and outboard motors required to be titled pursuant to Chapter 1548. of the Revised Code and sales of motor vehicles, and may increase an existing rate of one-fourth of one per cent to one-half of one per cent, to pay the expenses of administering the tax and, except as provided in

division (A)(6) of this section, for any one or more of the following purposes provided that the aggregate levy for all such purposes does not exceed one-half of one per cent:

(1) To provide additional revenues for the payment of bonds or notes issued in anticipation of bonds issued by a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code and to provide additional operating revenues for the convention facilities authority;

(2) To provide additional revenues for a transit authority operating in the county;

(3) To provide additional revenue for the county's general fund;

(4) To provide additional revenue for permanent improvements within the county to be distributed by the community improvements board in accordance with section 307.283 and to pay principal, interest, and premium on bonds issued under section 307.284 of the Revised Code;

(5) To provide additional revenue for the acquisition, construction, equipping, or repair of any specific permanent improvement or any class or group of permanent improvements, which improvement or class or group of improvements shall be enumerated in the resolution required by division (D) of this section, and to pay principal, interest, premium, and other costs associated with the issuance of bonds or notes in anticipation of bonds issued pursuant to Chapter 133. of the Revised Code for the acquisition, construction, equipping, or repair of the specific permanent improvement or class or group of permanent improvements;

(6) To provide revenue for the implementation and operation of a 9-1-1 system in the county. If the tax is levied or the rate increased exclusively for such purpose, the tax shall not be levied or the rate increased for more than five years. At the end of the last year the tax is levied or the rate increased, any balance remaining in the special fund established for such purpose shall remain in that fund and be used exclusively for such purpose until the fund is completely expended, and, notwithstanding section 5705.16 of the Revised Code, the board of county commissioners shall not petition for the transfer of money from such special fund, and the tax commissioner shall not approve such a petition.

If the tax is levied or the rate increased for such purpose for more than five years, the board of county commissioners also shall levy the tax or increase the rate of the tax for one or more of the purposes described in divisions (A)(1) to (5) of this section and shall prescribe the method for allocating the revenues from the tax each year in the manner required by division (C) of this section.

(7) To provide additional revenue for the operation or maintenance of a detention facility, as that term is defined under division (F) of section 2921.01 of the Revised Code;

(8) To provide revenue to finance the construction or renovation of a sports facility, but only if the tax is levied for that purpose in the manner prescribed by section 5739.028 of the Revised Code.

As used in division (A)(8) of this section:

(a) "Sports facility" means a facility intended to house major league professional athletic teams.

(b) "Constructing" or "construction" includes providing fixtures, furnishings, and equipment.

(9) To provide additional revenue for the acquisition of agricultural easements, as defined in section 5301.67 of the Revised Code; to pay principal, interest, and premium on bonds issued under section 133.60 of the Revised Code; and for the supervision and enforcement of agricultural easements held by the county.

Pursuant to section 755.171 of the Revised Code, a board of county commissioners may pledge and contribute revenue from a tax levied for the purpose of division (A)(5) of this section to the payment of debt charges on bonds issued under section 755.17 of the Revised Code.

The rate of tax shall be a multiple of one-fourth of one per cent, unless a portion of the rate of an existing tax levied under section 5739.023 of the Revised Code has been reduced, and the rate of tax levied under this section has been increased, pursuant to section 5739.028 of the Revised Code, in which case the aggregate of the rates of tax levied under this section and section 5739.023 of the Revised Code shall be a multiple of one-fourth of one per cent. The tax shall be levied and the rate increased pursuant to a resolution adopted by a majority of the members of the board.

Prior to the adoption of any resolution to levy the tax or to increase the rate of tax exclusively for the purpose set forth in division (A)(3) of this section, the board of county commissioners shall conduct two public hearings on the resolution, the second hearing to be no fewer than three nor more than ten days after the first. Notice of the date, time, and place of the hearings shall be given by publication in a newspaper of general circulation in the county once a week on the same day of the week for two consecutive weeks, the second publication being no fewer than ten nor more than thirty days prior to the first hearing. Except as provided in division (E) of this section, the resolution shall become effective on the first day of a calendar quarter following the expiration of sixty days from the date of its adoption, subject to a referendum as provided in sections 305.31 to 305.41 of the

Revised Code. If the resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, it must receive an affirmative vote of all of the members of the board of county commissioners and shall state the reasons for the necessity.

If the tax is for more than one of the purposes set forth in divisions (A)(1) to (7) and (9) of this section or is exclusively for one of the purposes set forth in division (A)(1), (2), (4), (5), (6), (7), or (9) of this section, the resolution shall not go into effect unless it is approved by a majority of the electors voting on the question of the tax.

(B) The board of county commissioners shall adopt a resolution under section 351.02 of the Revised Code creating the convention facilities authority, or under section 307.283 of the Revised Code creating the community improvements board, before adopting a resolution levying a tax for the purpose of a convention facilities authority under division (A)(1) of this section or for the purpose of a community improvements board under division (A)(4) of this section.

(C)(1) If the tax is to be used for more than one of the purposes set forth in divisions (A)(1) to (7) and (9) of this section, the board of county commissioners shall establish the method that will be used to determine the amount or proportion of the tax revenue received by the county during each year that will be distributed for each of those purposes, including, if applicable, provisions governing the reallocation of a convention facilities authority's allocation if the authority is dissolved while the tax is in effect. The allocation method may provide that different proportions or amounts of the tax shall be distributed among the purposes in different years, but it shall clearly describe the method that will be used for each year. Except as otherwise provided in division (C)(2) of this section, the allocation method established by the board is not subject to amendment during the life of the tax.

(2) Subsequent to holding a public hearing on the proposed amendment, the board of county commissioners may amend the allocation method established under division (C)(1) of this section for any year, if the amendment is approved by the governing board of each entity whose allocation for the year would be reduced by the proposed amendment. In the case of a tax that is levied for a continuing period of time, the board may not so amend the allocation method for any year before the sixth year that the tax is in effect.

(a) If the additional revenues provided to the convention facilities authority are pledged by the authority for the payment of convention facilities authority revenue bonds for as long as such bonds are outstanding,

no reduction of the authority's allocation of the tax shall be made for any year except to the extent that the reduced authority allocation, when combined with the authority's other revenues pledged for that purpose, is sufficient to meet the debt service requirements for that year on such bonds.

(b) If the additional revenues provided to the county are pledged by the county for the payment of bonds or notes described in division (A)(4) or (5) of this section, for as long as such bonds or notes are outstanding, no reduction of the county's or the community improvements board's allocation of the tax shall be made for any year, except to the extent that the reduced county or community improvements board allocation is sufficient to meet the debt service requirements for that year on such bonds or notes.

(c) If the additional revenues provided to the transit authority are pledged by the authority for the payment of revenue bonds issued under section 306.37 of the Revised Code, for as long as such bonds are outstanding, no reduction of the authority's allocation of tax shall be made for any year, except to the extent that the authority's reduced allocation, when combined with the authority's other revenues pledged for that purpose, is sufficient to meet the debt service requirements for that year on such bonds.

(d) If the additional revenues provided to the county are pledged by the county for the payment of bonds or notes issued under section 133.60 of the Revised Code, for so long as the bonds or notes are outstanding, no reduction of the county's allocation of the tax shall be made for any year, except to the extent that the reduced county allocation is sufficient to meet the debt service requirements for that year on the bonds or notes.

(D)(1) The resolution levying the tax or increasing the rate of tax shall state the rate of the tax or the rate of the increase; the purpose or purposes for which it is to be levied; the number of years for which it is to be levied or that it is for a continuing period of time; the allocation method required by division (C) of this section; and if required to be submitted to the electors of the county under division (A) of this section, the date of the election at which the proposal shall be submitted to the electors of the county, which shall be not less than seventy-five days after the certification of a copy of the resolution to the board of elections and, if the tax is to be levied exclusively for the purpose set forth in division (A)(3) of this section, shall not occur in February or August of any year. Upon certification of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. If approved by a majority of the electors, the tax shall become effective on the first day of a calendar quarter next following the

sixtieth day following the certification of the results of the election to the board of county commissioners and the tax commissioner by the board of elections, except as provided in division (E) of this section.

(2)(a) A resolution specifying that the tax is to be used exclusively for the purpose set forth in division (A)(3) of this section that is not adopted as an emergency measure may direct the board of elections to submit the question of levying the tax or increasing the rate of the tax to the electors of the county at a special election held on the date specified by the board of county commissioners in the resolution, provided that the election occurs not less than seventy-five days after the resolution is certified to the board of elections and the election is not held in February or August of any year. Upon certification of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. No resolution adopted under division (D)(2)(a) of this section shall go into effect unless approved by a majority of those voting upon it and, except as provided in division (E) of this section, not until the first day of a calendar quarter following the expiration of sixty days from the date of the notice to the tax commissioner by the board of elections of the affirmative vote.

(b) A resolution specifying that the tax is to be used exclusively for the purpose set forth in division (A)(3) of this section that is adopted as an emergency measure shall become effective as provided in division (A) of this section, but may direct the board of elections to submit the question of repealing the tax or increase in the rate of the tax to the electors of the county at the next general election in the county occurring not less than seventy-five days after the resolution is certified to the board of elections. Upon certification of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. The ballot question shall be the same as that prescribed in section 5739.022 of the Revised Code. The board of elections shall notify the board of county commissioners and the tax commissioner of the result of the election immediately after the result has been declared. If a majority of the qualified electors voting on the question of repealing the tax or increase in the rate of the tax vote for repeal of the tax or repeal of the increase, the board of county commissioners, on the first day of a calendar quarter following the expiration of sixty days after the date it received notice of the result of the election, shall, in the case of a repeal of the tax, cease to levy the tax, or, in the case of a repeal of an increase in the rate of the tax, cease to levy the increased rate and levy the tax at the rate at which it was imposed immediately prior to the increase in rate.

(c) A board of county commissioners, by resolution, may reduce the rate of a tax levied exclusively for the purpose set forth in division (A)(3) of this section to a lower rate authorized by this section. Any such reduction shall be made effective on the first day of the calendar quarter specified in the resolution, but not sooner than the first day of the month next following the sixtieth day after the resolution is certified to the tax commissioner.

(E) If a vendor that is registered with the central electronic registration system provided for in section 5740.05 of the Revised Code makes a sale in this state by printed catalog and the consumer computed the tax on the sale based on local rates published in the catalog, any tax levied or rate changed under this section shall not apply to such a sale until the first day of a calendar quarter following the expiration of one hundred twenty days from the date of notice by the tax commissioner to the vendor, or to the vendor's certified service provider, if the vendor has selected one.

~~A board of county commissioners may by resolution reduce the rate of a tax levied under division (A)(3) of this section to a lower rate authorized by this section. Any such reduction shall be made effective on the first day of the month specified in the resolution but not sooner than the first day of the month next following the thirtieth day after certification of the resolution to the tax commissioner.~~

(F) The tax levied pursuant to this section shall be in addition to the tax levied by section 5739.02 of the Revised Code and any tax levied pursuant to section 5739.021 or 5739.023 of the Revised Code.

A county that levies a tax pursuant to this section shall levy a tax at the same rate pursuant to section 5741.023 of the Revised Code.

The additional tax levied by the county shall be collected pursuant to section 5739.025 of the Revised Code.

Any tax levied pursuant to this section is subject to the exemptions provided in section 5739.02 of the Revised Code and in addition shall not be applicable to sales not within the taxing power of a county under the Constitution of the United States or the Ohio Constitution.

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 sale as determined under this section or, if applicable, under division (C) of section 5739.031 of the Revised Code.

(A) Except for sales of titled motor vehicles, titled watercraft, or titled outboard motors as provided in section 5741.05 of the Revised Code, or as otherwise provided in this section; and section 5739.034 of the Revised Code, the situs of all sales is the vendor's place of business.

(1) If the consumer or the consumer's donee receives tangible personal property or a service at a place of business of the vendor, the situs of the sale is ~~conclusively determined to be~~ that place of business.

(2) When the tangible personal property or service is not received at a vendor's place of business, the situs of the sale is ~~conclusively determined to be consummated at~~ the location where the consumer or a donee designated by the consumer receives the tangible personal property or service, including the location indicated by instructions for delivery to the consumer or the consumer's donee, known to the vendor.

(3) If divisions (A)(1) and (2) of this section do not apply, the situs of the sale is ~~conclusively determined to be consummated at~~ the location indicated by an address for the consumer that is available from the business records of the vendor that are maintained in the ordinary course of the vendor's business when use of that address does not constitute bad faith.

(4) If divisions (A)(1), (2), and (3) of this section do not apply, the situs of the sale is ~~conclusively determined to be consummated at~~ the location indicated by an address for the consumer obtained during the consummation of the sale, including the address associated with the consumer's payment instrument, if no other address is available, when use of that address does not constitute bad faith.

(5) If divisions (A)(1), (2), (3), and (4) of this section do not apply, including in the circumstance where the vendor is without sufficient information to apply any of those divisions, the situs of the sale is ~~conclusively determined to be consummated at~~ the address from which tangible personal property was shipped, or from which the service was provided, disregarding any location that merely provided the electronic transfer of the property sold or service provided.

(6) As used in division (A) of this section, "receive" means taking possession of tangible personal property or making first use of a service. "Receive" does not include possession by a shipping company on behalf of a consumer.

(B)(1) Notwithstanding divisions (A)(1) to (5) of this section, a manufacturer or other consumer that is not a holder of a direct payment permit granted under section 5739.031 of the Revised Code, that purchases tangible personal property or a service for use in business, and that knows at the time of purchase that the property or service will be concurrently available for use in more than one taxing jurisdiction shall deliver to the vendor in conjunction with its purchase a multiple points of use exemption form prescribed by the tax commissioner disclosing this fact. On receipt of the multiple points of use exemption form, the vendor is relieved of its

obligation to collect, pay, or remit the tax due, and the consumer must collect, pay, or remit the tax directly to the state.

(2) A consumer that delivers such form to a vendor may use any reasonable, consistent, and uniform method of apportioning the tax due on the tangible personal property or service that is supported by the consumer's business records as they existed at the time of the sale.

(3) The multiple points of use exemption form shall remain in effect for all future sales by the vendor to the consumer until it is revoked in writing by the consumer, except as to the consumer's specific apportionment of a subsequent sale under division (B) of this section and the facts existing at the time of the sale.

(C) A person who holds a direct payment permit issued under section 5739.031 of the Revised Code is not required to deliver a multiple points of use exemption form to a vendor. But such permit holder shall comply with division (B)(2) of this section in apportioning the tax due on tangible personal property or a service that will be concurrently available for use in more than one taxing jurisdiction.

(D) Except as provided in division (F) ~~or J~~ of this section:

(1) If the vendor provides a service specified in division (B)(3)(f) or (i) of section 5739.01 of the Revised Code, the situs of the sale is the location of the telephone number or account as reflected in the records of the vendor.

(2) In the case of a telecommunications service, if the telephone number or account is located outside this state, the situs of the sale is the location in this state from which the service originated.

(E) If the vendor provides lodging to transient guests as specified in division (B)(2) of section 5739.01 of the Revised Code, the situs of the sale is the location where the lodging is located.

(F) Except as otherwise provided in this division, if the vendor sells a prepaid authorization number or a prepaid telephone calling card, the situs of the sale is the vendor's place of business and shall be taxed at the time of sale. If the vendor sells a prepaid authorization number or prepaid telephone calling card through a telephone call, electronic commerce, or any other form of remote commerce, the situs of the sale is the consumer's shipping address, or, if there is no item shipped, at the consumer's billing address.

SECTION 1.08. That the existing versions of sections 5739.026 and 5739.033 of the Revised Code that are scheduled to take effect July 1, 2003, are hereby repealed.

SECTION 1.09. Sections 1.07 and 1.08 of this act take effect July 1, 2003.

SECTION 2.01. The items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Public School Building Fund (Fund 021), that are not otherwise appropriated.

		Appropriations
SFC SCHOOL FACILITIES COMMISSION		
CAP-622	Public School Buildings	\$ 30,000,000
Total School Facilities Commission		\$ 30,000,000
TOTAL Public School Building Fund		\$ 30,000,000

SECTION 2.02. PUBLIC SCHOOL BUILDING FUND

The Controlling Board, when requested to do so by the Executive Director of the Ohio School Facilities Commission, may increase appropriations in the Public School Building Fund (Fund 021), based on revenues received by the fund, including cash transfers and interest that may accrue to the fund.

SECTION 3.01. The items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Highway Safety Fund (Fund 036), that are not otherwise appropriated.

		Appropriations
DHS DEPARTMENT OF PUBLIC SAFETY		
CAP-045	Platform Scales Improvements	\$ 200,000
CAP-059	Patrol Post ADA Compliance	\$ 250,000
CAP-077	Van Wert Patrol Post	\$ 1,700,000
Total Department of Public Safety		\$ 2,150,000
TOTAL Highway Safety Fund		\$ 2,150,000

SECTION 4.01. All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Waterways Safety Fund (Fund 086), that are not otherwise appropriated.

		Appropriations
DNR DEPARTMENT OF NATURAL RESOURCES		
CAP-324	Cooperative Funding for Boating Facilities	\$ 7,600,000
CAP-390	State Park Maintenance Facility Development - Middle Bass Island	\$ 1,821,093
Total Department of Natural Resources		\$ 9,421,093
TOTAL Waterways Safety Fund		\$ 9,421,093

SECTION 5.01. All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Special Administrative Fund (Fund 4A9) that are not otherwise appropriated.

		Appropriations
JFS DEPARTMENT OF JOB AND FAMILY SERVICES		
CAP-702	Central Office Building Renovations	\$ 16,000,000
Total Department of Job and Family Services		\$ 16,000,000
TOTAL Special Administrative Fund		\$ 16,000,000

CENTRAL OFFICE BUILDING RENOVATIONS SPENDING AND REPAYMENT PLAN

Funds appropriated in the foregoing appropriation item CAP-702, Central Office Building Renovations, are to be released for expenditure only after approval of the Unemployment Compensation Advisory Council created under section 4141.08 of the Revised Code. The amount to be released shall be based on a spending plan, which may include a repayment schedule, approved by the Council. Once approval is received, the Director of Job and Family Services shall request the Director of Budget and Management or the Controlling Board to release the appropriation.

SECTION 6.01. The items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the State Fire Marshal Fund (Fund 546), that are not otherwise appropriated.

		Appropriations
COM DEPARTMENT OF COMMERCE		
CAP-013	Land Acquisition	\$ 1,500,000
CAP-014	Office and Dorm Addition	\$ 1,800,000
Total Department of Commerce		\$ 3,300,000
TOTAL State Fire Marshal Fund		\$ 3,300,000

SECTION 7.01. The items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Veterans' Home Improvement Fund (Fund 604) that are not otherwise appropriated.

		Appropriations
OVH OHIO VETERANS' HOME AGENCY		
CAP-766	Secret Motor Coordinators	\$ 33,000
CAP-769	Water and Air Balance	\$ 190,000
CAP-770	Secret Nursing Home Case Goods	\$ 200,000
CAP-771	Elevator Giffin	\$ 190,000
CAP-772	Demolish Cline and Cameron Cottages	\$ 45,000
CAP-773	Emergency Generator	\$ 26,500
CAP-774	Fire Alarm Security System	\$ 595,000

Total Ohio Veterans' Home Agency	\$	1,279,500
TOTAL Veterans' Home Improvement Fund	\$	1,279,500

SECTION 8.01. All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Clean Ohio Revitalization Fund (Fund 003) that are not otherwise appropriated.

Appropriations

DEV DEPARTMENT OF DEVELOPMENT

CAP-001	Clean Ohio Revitalization	\$	40,000,000
CAP-002	Clean Ohio Assistance	\$	10,000,000
	Total Department of Development	\$	50,000,000
	TOTAL Clean Ohio Revitalization Fund	\$	50,000,000

SECTION 8.02. The Treasurer of State is hereby authorized to issue and sell, in accordance with Section 2o of Article VIII, Ohio Constitution, and pursuant to sections 151.01 and 151.40 of the Revised Code, original obligations in an aggregate principal amount not to exceed \$50,000,000, in addition to the original issuance of obligations heretofore authorized by prior acts of the General Assembly. These authorized obligations shall be issued, subject to applicable constitutional and statutory limitations, as needed to ensure sufficient moneys to the credit of the Clean Ohio Revitalization Fund (Fund 003) to pay costs of revitalization projects as referred to in sections 151.01 and 151.40 of the Revised Code.

SECTION 9.01. All items set forth in this section are hereby appropriated out of any money in the state treasury to the credit of the Sports Facilities Building Fund (Fund 024) that are not otherwise appropriated.

Appropriations

AFC OHIO ARTS AND SPORTS FACILITIES COMMISSION

CAP-025	Reds Hall of Fame	\$	10,000,000
CAP-073	Marina District/Ice Arena Development	\$	4,000,000
CAP-838	Great Lakes Baseball Stadium	\$	500,000
	Total Ohio Arts and Sports Facilities Commission	\$	14,500,000
	TOTAL Sports Facilities Building Fund	\$	14,500,000

REDS HALL OF FAME

The foregoing appropriation item CAP-025, Reds Hall of Fame, shall be included within the \$81 million not-to-exceed amount established in Am. H.B. 748 of the 121st General Assembly for appropriation item CAP-025. In accordance with Chapter 3383. of the Revised Code, state funds shall be used for up to fifteen per cent of the initial estimated cost of construction of

the Hall of Fame, as determined by the Ohio Arts and Sports Facilities Commission. Any remaining funds shall be used for other preapproved components of the improvements project that meet the requirements of Chapter 3383. of the Revised Code, as determined by the Arts and Sports Facilities Commission.

SECTION 9.02. 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. and other applicable sections of the Revised Code, original obligations in an aggregate principal amount not to exceed \$5,000,000, in addition to the original issuance of obligations heretofore authorized by prior acts of the General Assembly. The authorized obligations shall be issued, subject to applicable constitutional and statutory limitations, to pay the costs of capital facilities, as defined in division (J) of section 3383.01 of the Revised Code (Ohio sports facilities).

SECTION 10.01. All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Highway Safety Building Fund (Fund 025) that are not otherwise appropriated.

		Appropriations
DHS DEPARTMENT OF PUBLIC SAFETY		
CAP-048	Statewide Communications System	\$ 3,259,329
	Total Department of Public Safety	\$ 3,259,329
	TOTAL Highway Safety Building Fund	\$ 3,259,329

SECTION 10.02. The Ohio Building Authority is hereby authorized to issue and sell, in accordance with Section 2i of Article VIII, Ohio Constitution, and Chapter 152. and other applicable sections of the Revised Code, original obligations in an aggregate principal amount not to exceed \$1,000,000, in addition to the original issuance of obligations heretofore authorized by prior acts of the General Assembly. The authorized obligations shall be issued, subject to applicable constitutional and statutory limitations, to pay the costs associated with previously authorized capital facilities and the capital facilities referred to in Section 10.01 of this act for the Department of Public Safety.

Notwithstanding any provision of law to the contrary, at any time prior to the sale of obligations authorized in this section, the Director of Budget and Management, with the written concurrence of the Director of Public

Safety, may transfer cash temporarily from the Highway Safety Fund (Fund 036) to the Highway Safety Building Fund (Fund 025), where such cash may be used to fund the projects appropriated in Section 10.01 of this act. At such time as the obligations authorized in this section are sold, the Director of Budget and Management shall transfer from the Highway Safety Building Fund to the Highway Safety Fund any amounts originally transferred to the Highway Safety Building Fund under this section.

SECTION 11.01. All items set forth in Sections 11.02 to 11.14 of this act are hereby appropriated out of any moneys in the state treasury to the credit of the Administrative Building Fund (Fund 026) that are not otherwise appropriated.

		Appropriations
SECTION 11.02. ADJ ADJUTANT GENERAL		
CAP-036	Roof Replacement - Various	\$ 197,587
CAP-039	Camp Perry Facility Improvements	\$ 500,000
CAP-044	Replace Windows/Doors - Various	\$ 306,260
CAP-045	Plumbing Renovations - Various	\$ 291,441
CAP-046	Paving Renovations - Various	\$ 238,886
CAP-050	HVAC Systems - Various	\$ 51,020
CAP-056	Masonry Repairs/Renovations - Various	\$ 164,656
CAP-060	Facility Protection Measures	\$ 599,550
CAP-061	Repair/Renovate Waste Water System	\$ 200,000
CAP-062	Construct Coshocton Armory	\$ 950,600
CAP-063	Rickenbacker Air and Industrial Park Runway	\$ 2,500,000
CAP-064	Bowling Green Armory Construction	\$ 1,000,000
Total Adjutant General		\$ 7,000,000

		Appropriations
SECTION 11.03. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES		
CAP-773	Governor's Residence Renovations	\$ 265,400
CAP-809	Hazardous Substance Abatement	\$ 250,000
CAP-811	Health/EPA Laboratory Facilities	\$ 16,834,591
CAP-813	Heer Building Renovation	\$ 1,500,000
CAP-826	Surface Road Building Renovations	\$ 1,250,000
CAP-827	Statewide Communications System	\$ 14,854,591
CAP-835	Energy Conservation Projects	\$ 1,550,000
CAP-852	North High St Government Complex	\$ 1,100,000
CAP-856	Governor's Residence Security System	\$ 155,800
CAP-859	eSecure Ohio	\$ 2,500,000
CAP-864	eGovernment Infrastructure	\$ 1,047,400
CAP-865	DAS Building Security	\$ 78,100
CAP-867	Lausche Building Connector	\$ 1,000,000

Total Department of Administrative Services \$ 42,385,882
MARCS STEERING COMMITTEE AND STATEWIDE
COMMUNICATIONS SYSTEM

There is hereby continued a Multi-Agency Radio Communications System (MARCS) Steering Committee consisting of the Directors of Administrative Services, Public Safety, Natural Resources, Transportation, Rehabilitation and Correction, and Budget and Management or their designees. The Director of Administrative Services or the director's 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 CAP-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 appropriation item shall not be subject to the requirements of Chapters 123. and 153. of the Revised Code.

ENERGY CONSERVATION PROJECTS

The foregoing appropriation item CAP-835, Energy Conservation Projects, shall be used to perform energy conservation renovations, including the United States 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.

Appropriations

SECTION 11.04. AGR DEPARTMENT OF AGRICULTURE

CAP-043	Building and Grounds Renovation	\$	400,000
CAP-048	Alkaline Hydrolysis Equipment & Addition	\$	1,635,536
Total Department of Agriculture		\$	2,035,536

Appropriations

SECTION 11.05. CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD

CAP-014	Statehouse Grounds Repair/Improvement	\$	500,000
Total Capitol Square Review and Advisory Board		\$	500,000

Appropriations

SECTION 11.06. EXP EXPOSITIONS COMMISSION

CAP-037	Electrical Upgrades	\$	2,600,000
CAP-056	Building Renovations	\$	1,000,000
CAP-063	Facilities Improvements and Modernization	\$	700,000
CAP-069	Restroom Renovations	\$	500,000
CAP-072	Emergency Renovations and Equipment Replacement	\$	700,000
Total Expositions Commission		\$	5,500,000

Appropriations

SECTION 11.07. DOH DEPARTMENT OF HEALTH

CAP-003	Building Renovation & Telecommunications	\$	800,000
Total Department of Health		\$	800,000

Appropriations

SECTION 11.08. DNR DEPARTMENT OF NATURAL RESOURCES

CAP-744	Multi-Agency Radio Communications Equipment - MARCS	\$	8,450,955
Total Department of Natural Resources		\$	8,450,955

Appropriations

SECTION 11.09. DHS DEPARTMENT OF PUBLIC SAFETY

CAP-054	Multi-Agency Radio Communications System - MARCS	\$	690,000
CAP-078	Upgrade/Replacement of State EOC Equip/System	\$	810,000
Total Department of Public Safety		\$	1,500,000

Appropriations

SECTION 11.10. JSC JUDICIARY/SUPREME COURT

CAP-001	Ohio Courts Building Renovations	\$	5,476,000
Total Judiciary/Supreme Court		\$	5,476,000

EXEMPT FROM PER CENT FOR ARTS PROGRAM

The foregoing appropriation item CAP-001, Ohio Courts Building Renovations, shall be exempt from section 3379.10 of the Revised Code, the Per Cent for Arts Program.

Appropriations

SECTION 11.11. OSB SCHOOL FOR THE BLIND

CAP-745	Roof Improvements on the School and Cottages	\$	885,000
CAP-772	Boiler Replacement	\$	510,000
CAP-773	School Residential Hot Water	\$	605,000
Total School for the Blind		\$	2,000,000

Appropriations

SECTION 11.12. OSD SCHOOL FOR THE DEAF

CAP-767	Roof Renovations	\$	1,015,521
CAP-774	Student Health Services Electrical Upgrade	\$	111,000
CAP-775	Staff Building Heat & Electric Upgrades	\$	631,433
CAP-776	Dormitory Renovations	\$	320,000
Total School for the Deaf		\$	2,077,954

SECTION 11.13. SOS SECRETARY OF STATE

CAP-002	Voting Machines	\$	5,800,000
Total Secretary of State		\$	5,800,000

VOTING MACHINES

The foregoing appropriation item CAP-002, Voting Machines, shall be used to purchase upgraded voting equipment. Appropriation item CAP-002, Voting Machines, shall match federal funds provided through the Help America Vote Act of 2002.

SECTION 11.14. OVH OHIO VETERANS' HOME AGENCY

CAP-775	Emergency Generator	\$	600,000
Total Ohio Veterans' Home Agency		\$	600,000
TOTAL Administrative Building Fund		\$	84,126,327

SECTION 11.15. The Ohio Building Authority is hereby authorized to issue and sell, in accordance with Section 2i of Article VIII, Ohio Constitution, and Chapter 152. and other applicable sections of the Revised Code, original obligations in an aggregate principal amount not to exceed

68,000,000, in addition to the original issuance of obligations heretofore authorized by prior acts of the General Assembly. The authorized obligations shall be issued, subject to applicable constitutional and statutory limitations, to pay costs associated with previously authorized capital facilities and the capital facilities referred to in Sections 11.02 to 11.14 of this act.

SECTION 12.01. All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Adult Correctional Building Fund (Fund 027) that are not otherwise appropriated.

		Appropriations
DRC DEPARTMENT OF REHABILITATION AND CORRECTION		
STATEWIDE AND CENTRAL OFFICE PROJECTS		
CAP-008	Powerhouse/Utility Improvements	\$ 1,486,925
CAP-009	Water System/Plant Improvements	\$ 6,857,016
CAP-017	Security Improvements - Statewide	\$ 1,597,875
CAP-111	General Building Renovations	\$ 11,448,991
CAP-141	Multi-Agency Radio Communications System Equipment	\$ 2,600,000
CAP-187	Mandown Alert Communication System - Statewide	\$ 5,200,000
CAP-240	State Match for Federal Prison Construction Funds	\$ 1,218,881
Total Statewide and Central Office Projects		\$ 30,409,688
PICKAWAY CORRECTIONAL INSTITUTION		
CAP-312	Waste Water Treatment Plant	\$ 7,583,125
Total Pickaway Correctional Institution		\$ 7,583,125
SOUTHERN OHIO CORRECTIONAL FACILITY		
CAP-230	Waste Water Treatment Plant	\$ 2,007,187
Total Southern Ohio Correctional Facility		\$ 2,007,187
TOTAL Department of Rehabilitation and Correction		\$ 40,000,000
TOTAL ADULT CORRECTIONAL BUILDING FUND		\$ 40,000,000

SECTION 12.02. The Ohio Building Authority is hereby authorized to issue and sell, in accordance with Section 2i of Article VIII, Ohio Constitution, and Chapter 152. and section 307.021 of the Revised Code, original obligations in an aggregate principal amount not to exceed \$25,000,000 in addition to the original issuance of obligations heretofore authorized by prior acts of the General Assembly. The authorized obligations shall be issued subject to applicable constitutional and statutory limitations, to pay costs associated with previously authorized capital facilities and the capital facilities referred to in Section 12.01 of this act for the Department of Rehabilitation and Correction.

SECTION 13.01. 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) that are not otherwise appropriated.

		Appropriations
DYS DEPARTMENT OF YOUTH SERVICES		
CAP-801	Fire Suppression/Safety/Security	\$ 1,635,000
CAP-803	General Institutional Renovations	\$ 3,055,500
CAP-836	ADA Life/Safety & Other Renovations - Riverview	\$ 1,000,000
CAP-837	Sanitary Safety & Other Renovations - Indian River	\$ 4,309,500
Total Department of Youth Services		\$ 10,000,000
TOTAL Juvenile Correctional Building Fund		\$ 10,000,000

SECTION 13.02. The Ohio Building Authority is hereby authorized to issue and sell, in accordance with Section 2i of Article VIII, Ohio Constitution, and Chapter 152. and other applicable sections of the Revised Code, original obligations in an aggregate principal amount not to exceed \$5,000,000 in addition to the original issuance of obligations heretofore authorized by prior acts of the General Assembly. The authorized obligations shall be issued, subject to applicable constitutional and statutory limitations, to pay the costs associated with previously authorized capital facilities and the capital facilities referred to in Section 13.01 of this act for the Department of Youth Services.

SECTION 14.01. All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Transportation Building Fund (Fund 029) that are not otherwise appropriated.

		Appropriations
DOT DEPARTMENT OF TRANSPORTATION		
CAP-001	Transportation Buildings Capital Improvements	\$ 50,000
Total Department of Transportation		\$ 50,000
TOTAL Transportation Building Fund		\$ 50,000

SECTION 14.02. The amount of authorization to issue and sell obligations granted to the Ohio Building Authority by prior acts of the General Assembly pursuant to Section 2i of Article VIII, Ohio Constitution, and Chapter 152. of the Revised Code to pay costs of capital facilities or improvements for the Department of Transportation Building is reduced

from \$210,000,000 to \$155,800,000.

SECTION 15.01. All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Arts Facilities Building Fund (Fund 030) that are not otherwise appropriated.

		Appropriations
AFC ARTS AND SPORTS FACILITIES COMMISSION		
CAP-010	Sandusky State Theatre Improvements	\$ 1,000,000
CAP-013	Stambaugh Hall Improvements	\$ 200,000
CAP-033	Woodward Opera House Renovation	\$ 250,000
CAP-037	Canton Palace Theatre Renovations	\$ 1,000,000
CAP-038	Center Exhibit Replacement	\$ 750,000
CAP-041	Cleveland Playhouse	\$ 500,000
CAP-042	Statewide Site Exhibit Renovation and Construction	\$ 625,000
CAP-043	Statewide Site Repairs	\$ 454,000
CAP-044	National Underground Railroad Freedom Center	\$ 4,000,000
CAP-046	Cincinnati Museum Center Improvements	\$ 1,600,000
CAP-052	Akron Art Museum	\$ 1,500,000
CAP-053	Powers Auditorium Improvements	\$ 200,000
CAP-056	Ohio Agricultural and Industrial Heritage Center	\$ 1,000,000
CAP-057	Comprehensive Master Plan	\$ 180,000
CAP-058	Visitor Orientation Center	\$ 673,000
CAP-064	Bramley Historic House	\$ 75,000
CAP-065	Beck Center for the Cultural Arts	\$ 100,000
CAP-066	Delaware County Cultural Arts Center	\$ 40,000
CAP-067	Myers Historic Inn	\$ 50,000
CAP-068	Perry County Historical Society	\$ 100,000
CAP-069	Cleveland Institute of Art	\$ 750,000
CAP-071	Cleveland Institute of Music	\$ 750,000
CAP-072	West Side Arts Consortium	\$ 250,000
CAP-074	Stan Hywet Hall & Gardens	\$ 250,000
CAP-075	McKinley Museum Improvements	\$ 125,000
CAP-076	Spring Hill Historic Home	\$ 125,000
CAP-077	Western Reserve Ballet Improvements	\$ 100,000
CAP-078	Midland Theatre	\$ 175,000
CAP-079	Lorain Palace Civic Theatre	\$ 200,000
CAP-080	Great Lakes Historical Society	\$ 150,000
CAP-734	Hayes Presidential Center - Museum and Home Improvements	\$ 75,000
CAP-745	Emergency Repairs	\$ 750,000
CAP-781	Archives and Library Automation	\$ 300,000
CAP-784	Center Rehabilitation	\$ 741,000
CAP-791	Harrison Tomb	\$ 149,500
CAP-806	Grant Boyhood Home Improvements	\$ 68,333
CAP-810	Toledo Museum of Art Improvements	\$ 2,000,000
CAP-811	National First Ladies Library	\$ 500,000
CAP-812	Dayton Performing Arts Center	\$ 10,000,000
CAP-813	Cleveland Botanical Gardens	\$ 2,500,000
CAP-820	Historical Center/Ohio Village Buildings Renovations	\$ 502,000
CAP-821	Lorain County Historical Society	\$ 300,000
CAP-822	Madison County Historic Schoolhouse	\$ 40,000

CAP-823	Marion Palace Theatre	\$	825,000
CAP-824	McConnelsville Opera House	\$	75,000
CAP-825	Secrest Auditorium	\$	75,000
CAP-826	Renaissance Theatre	\$	50,000
CAP-827	Trumpet in the Land	\$	100,000
CAP-828	Becky Thatcher Showboat	\$	30,000
CAP-829	Mid-Ohio Valley Players	\$	50,000
CAP-830	The Anchorage	\$	50,000
CAP-831	Wayne County Historical Society	\$	300,000
CAP-832	Williams County Historical Society	\$	200,000
CAP-833	Promont House Museum	\$	200,000
CAP-834	Galion Historic Big Four Depot Restoration	\$	50,000
CAP-835	Jamestown Opera House	\$	100,000
CAP-836	Fairfield Outdoor Theatre	\$	100,000
CAP-837	Lake County Historical Society	\$	250,000
CAP-839	Hancock Historical Society	\$	75,000
CAP-840	RiverSouth Development	\$	10,000,000
CAP-841	Ft. Piqua Hotel	\$	200,000
CAP-842	Johnny Appleseed Heritage Center	\$	500,000
	Total Arts Facilities Commission	\$	48,327,833
	TOTAL Arts Facilities Building Fund	\$	48,327,833

SECTION 15.02. The Ohio Building Authority is hereby authorized to issue and sell, in accordance with Section 2i of Article VIII, Ohio Constitution, and Chapter 152. and other applicable sections of the Revised Code, original obligations in an aggregate principal amount not to exceed \$38,000,000 in addition to the original issuance of obligations heretofore authorized by prior acts of the General Assembly. The authorized obligations shall be issued, subject to applicable constitutional and statutory limitations, 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 15.01 of this act.

SECTION 16.01. 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) that are not otherwise appropriated.

			Appropriations
	DNR DEPARTMENT OF NATURAL RESOURCES		
	STATEWIDE AND LOCAL PROJECTS		
CAP-748	Local Parks Projects - Statewide	\$	3,343,905
CAP-753	Project Planning	\$	908,516
CAP-881	Dam Rehabilitation	\$	9,611,484
CAP-931	Wastewater/Water Systems Upgrades	\$	2,855,620
	Total Statewide and Local Projects	\$	16,719,525

Total Department of Natural Resources	\$	16,719,525
TOTAL Ohio Parks and Natural Resources Fund	\$	16,719,525

SECTION 16.02. The Ohio Public Facilities Commission, upon the request of the Director of Natural Resources, is hereby authorized to issue and sell, in accordance with Section 21 of Article VIII, Ohio Constitution, and Chapter 151. and particularly sections 151.01 and 151.05 of the Revised Code, original obligations in an aggregate principal amount not to exceed \$15,000,000 in addition to the original issuance of obligations heretofore authorized by prior acts of the General Assembly. These authorized obligations shall be issued, subject to applicable constitutional and statutory limitations, as needed to provide sufficient moneys to the credit of the Ohio Parks and Natural Resources Fund (Fund 031) to pay costs of capital facilities as defined in sections 151.01 and 151.05 of the Revised Code.

SECTION 16.03. For the projects appropriated in Section 16.01 of this act, the Department of Natural Resources shall periodically prepare and submit to the Director of Budget and Management the estimated design, planning, and engineering costs of capital-related work to be done by the Department of Natural Resources for each project. Based on the estimates, the Director of Budget and Management may release appropriations from the foregoing appropriation item CAP-753, Project Planning, to pay for design, planning, and engineering costs incurred by the Department of Natural Resources for such projects. Upon release of the appropriations by the Director of Budget and Management, the Department of Natural Resources shall pay for these expenses from the Capital Expenses Fund (Fund 4S9), and be reimbursed by Fund 031 using an intrastate voucher.

SECTION 17.01. All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the School Building Program Assistance Fund (Fund 032) that are not otherwise appropriated.

		Appropriations
SFC SCHOOL FACILITIES COMMISSION		
CAP-770 School Building Program Assistance	\$	284,200,000
Total School Facilities Commission	\$	284,200,000
TOTAL School Building Program Assistance Fund	\$	284,200,000

SCHOOL BUILDING PROGRAM ASSISTANCE

The foregoing appropriation item CAP-770, School Building Program Assistance, shall be used by the School Facilities Commission to provide

funding to school districts that receive conditional approval from the Commission pursuant to Chapter 3318. of the Revised Code.

SECTION 17.02. The Ohio Public Facilities Commission is hereby authorized to issue and sell, in accordance with Section 2n of Article VIII, Ohio Constitution, and Chapter 151. and particularly sections 151.01 and 151.03 of the Revised Code, original obligations in an aggregate principal amount not to exceed \$265,000,000, in addition to the original issuance of obligations heretofore authorized by prior acts of the General Assembly. The authorized obligations shall be issued, subject to applicable constitutional and statutory limitations, to pay the costs to the state of constructing classroom facilities pursuant to sections 3318.01 to 3318.35 of the Revised Code.

SECTION 18.01. All items set forth in Sections 18.02 to 18.05 are hereby appropriated out of any moneys in the state treasury to the credit of the Mental Health Facilities Improvement Fund (Fund 033) that are not otherwise appropriated.

SECTION 18.02. ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION SERVICES

CAP-002	Community Assistance Projects	\$	266,512
Total Department of Alcohol and Drug Addiction Services		\$	266,512

COMMUNITY ASSISTANCE PROJECTS

Of the foregoing appropriation item CAP-002, Community Assistance Projects, \$266,512 shall be used for the Oak House Women's Residential Treatment Facility.

Appropriations

SECTION 18.03. DMH DEPARTMENT OF MENTAL HEALTH

CAP-479	Community Assistance Projects	\$	3,912,500
CAP-906	Campus Consolidation/Automation	\$	12,040,000
CAP-978	Infrastructure Improvements	\$	3,460,000
Total Department of Mental Health		\$	19,412,500

COMMUNITY ASSISTANCE PROJECTS

Of the foregoing appropriation item CAP-479, Community Assistance Projects, \$500,000 shall be used for the Achievement Centers for Children in Cuyahoga County.

SECTION 18.04. DMR DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

		Appropriations
STATEWIDE AND CENTRAL OFFICE PROJECTS		
CAP-480	Community Assistance Projects	\$ 9,441,000
CAP-955	Statewide Development Centers	\$ 3,959,000
Total Statewide and Central Office Projects		\$ 13,400,000
TOTAL Department of Mental Retardation and Developmental Disabilities		
		\$ 13,400,000
TOTAL MENTAL HEALTH FACILITIES IMPROVEMENT FUND		\$ 33,079,012

COMMUNITY ASSISTANCE PROJECTS

The foregoing appropriation item CAP-480, Community Assistance Projects, may be used to provide community assistance funds for the development, purchase, 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.

Of the foregoing appropriation item CAP-480, Community Assistance Projects, \$150,000 shall be used for the Fostoria Area Community Childhood and Family Center; \$250,000 shall be used for the Berea Children's Home; and \$1,000,000 shall be used for the Bellefaire Jewish Children's Bureau.

SECTION 18.05. The foregoing appropriations for the Department of Alcohol and Drug Addiction Services, CAP-002, Community Assistance Projects; Department of Mental Health, CAP-479, Community Assistance Projects; and Department of Mental Retardation and Developmental Disabilities, CAP-480, Community Assistance Projects, may be used on facilities constructed or to be constructed pursuant to Chapter 340., 3793., 5119., 5123., or 5126. of the Revised Code or the authority granted by section 154.20 of the Revised Code and the rules issued pursuant to those chapters and shall be distributed by the Department of Alcohol and Drug Addiction Services, the Department of Mental Health, and the Department of Mental Retardation and Developmental Disabilities, all subject to

Controlling Board approval.

SECTION 18.06. (A) No capital improvement appropriations made in Sections 18.01 to 18.05 of this act shall be released for planning or for improvement, renovation, or construction or acquisition of capital facilities if a governmental agency, as defined in section 154.01 of the Revised Code, does not own the real property that constitutes the capital facilities or on which the capital facilities are or will be located. This restriction shall not apply in any of the following circumstances:

(1) The governmental agency has a long-term (at least fifteen years) lease of, or other interest (such as an easement) in, the real property.

(2) In the case of an appropriation for capital facilities that, because of their unique nature or location, will be owned or be part of facilities owned by a separate nonprofit organization and made available to the governmental agency for its use or operated by the nonprofit organization under contract with the governmental agency, the nonprofit organization either owns or has a long-term (at least fifteen years) lease of the real property or other capital facility to be improved, renovated, constructed, or acquired and has entered into a joint or cooperative use agreement, approved by the Department of Mental Health, Department of Mental Retardation and Developmental Disabilities, or Department of Alcohol and Drug Addiction Services, whichever is applicable, with the governmental agency for that agency's use of and right to use the capital facilities to be financed and, if applicable, improved, the value of such use or right to use being, as determined by the parties, reasonably related to the amount of the appropriation.

(B) In the case of capital facilities referred to in division (A)(2) of this section, the joint or cooperative use agreement shall include, as a minimum, provisions that:

(1) Specify the extent and nature of that joint or cooperative use, extending for not fewer than fifteen years, with the value of such use or right to use to be, as determined by the parties and approved by the approving department, reasonably related to the amount of the appropriation;

(2) Provide for pro rata reimbursement to the state should the arrangement for joint or cooperative use by a governmental agency be terminated;

(3) Provide that procedures to be followed during the capital improvement process will comply with appropriate applicable state laws and rules, including provisions of this act.

SECTION 18.07. The Treasurer of State is hereby authorized to issue and sell in accordance with Section 2i of Article VIII, Ohio Constitution, and Chapter 154. of the Revised Code, particularly section 154.20 of the Revised Code, original obligations in an aggregate principal amount not to exceed \$34,000,000 in addition to the original issuance of obligations heretofore authorized by prior acts of the General Assembly. The authorized obligations shall be issued, subject to applicable constitutional and statutory limitations, to pay costs of capital facilities as defined in section 154.01 of the Revised Code for mental hygiene and retardation.

SECTION 19.01. All items set forth in Sections 19.02 to 19.48 are hereby appropriated out of any moneys in the state treasury to the credit of the Higher Education Improvement Fund (Fund 034) that are not otherwise appropriated.

SECTION	19.02.	OEB	OHIO	Appropriations EDUCATIONAL
TELECOMMUNICATIONS NETWORK COMMISSION				
CAP-001	Educational TV and Radio Equipment		\$	1,000,626
Total Ohio Educational Telecommunications				
Network Commission				\$ 1,000,626

EDUCATIONAL TELEVISION AND RADIO EQUIPMENT

The foregoing appropriation item CAP-001, Educational Television and Radio Equipment, shall be used for the purpose of acquiring video file server technology for the Ohio Educational Telecommunications Network Commission's operations center.

Appropriations

**SECTION 19.03. BOARD OF REGENTS AND STATE INSTITUTIONS
OF HIGHER EDUCATION**

BOR BOARD OF REGENTS

CAP-025	Instructional and Data Processing Equipment	\$	33,000,000
CAP-029	Ohio Library and Information Network	\$	8,190,000
CAP-030	Ohio Supercomputer Center Expansion	\$	8,500,000
CAP-032	Research Facility Action and Investment Funds	\$	19,000,000
CAP-060	Technology Initiatives	\$	3,650,000
CAP-062	Non-Credit Job Training Facilities Grants	\$	5,985,000
CAP-064	Eminent Scholars Capital Grants	\$	2,000,000
CAP-068	Third Frontier	\$	50,000,000
CAP-070	Dark Fiber	\$	5,000,000

CAP-071	Center for Translational & Applied Genomics	\$	500,000
CAP-072	Cleveland Clinic Heart Center Infrastructure Project	\$	1,000,000
Total Board of Regents		\$	136,825,000

SECTION 19.04. RESEARCH FACILITY ACTION AND INVESTMENT FUNDS

The foregoing appropriation item CAP-032, Research Facility Action and Investment Funds, shall be used for a program of grants to be administered by the Board of Regents to provide timely availability of capital facilities for research programs and research-oriented instructional programs at or involving state-supported and state-assisted institutions of higher education.

The Board of Regents shall adopt rules under Chapter 119. of the Revised Code relative to the application for and approval of projects funded from appropriation item CAP-032, Research Facility Action and Investment Funds. The rules shall be reviewed and approved by the Legislative Committee on Education Oversight. The Board of Regents shall inform the President of the Senate and the Speaker of the House of Representatives of each project application for funding received. Each project receiving a commitment for funding by the Board of Regents under the rules shall be reported to the President of the Senate and the Speaker of the House of Representatives.

SECTION 19.05. TECHNOLOGY INITIATIVES

The foregoing appropriation CAP-060, Technology Initiatives, shall be used by the Board of Regents to support collaborative initiatives to improve the quality and efficiency of instruction, services, and program offerings at Ohio's state-assisted colleges and universities.

SECTION 19.06. EMINENT SCHOLARS CAPITAL GRANTS

The foregoing appropriation item CAP-064, Eminent Scholars Capital Grants, shall be used by the Ohio Board of Regents to make grants to state colleges and universities and nonprofit Ohio institutions of higher education holding certificates of authorization issued under section 1713.02 of the Revised Code that receive endowment grants from appropriation item 235-451, Eminent Scholars. The capital grants shall be used to acquire, renovate, rehabilitate, or construct facilities and purchase equipment to be used by an Eminent Scholar in the conduct of research, and shall require a 50 per cent match from recipient campuses.

The Board of Regents shall convene an Eminent Scholars Advisory Panel, which shall make recommendations for the administration of the Eminent Scholars program, including the award of capital grants. The panel's recommendations for capital awards from appropriation item CAP-064, Eminent Scholars Capital Grants, shall require the approval of the Board of Regents.

SECTION 19.07. THIRD FRONTIER PROJECT

The foregoing appropriation item CAP-068, Third Frontier Project, shall be used to acquire, renovate, or construct facilities and purchase equipment for research programs technology development, product development, and commercialization programs at or involving state-supported and state-assisted institutions of higher education. The funds shall be used to make grants awarded on a competitive basis, and shall be administered by the Third Frontier Commission. Expenditure of these funds shall comply with Section 2n of Article VIII, Ohio Constitution, and sections 151.01 and 151.04 of the Revised Code for the period beginning July 1, 2002, and ending June 30, 2004.

The Third Frontier Commission shall develop guidelines relative to the application for and selection of projects funded from appropriation item CAP-068, Third Frontier Project. The commission may develop these guidelines in consultation with other interested parties. The Board of Regents and all state-assisted and state-supported institutions of higher education shall take all actions necessary to implement grants awarded by the Third Frontier Commission.

The foregoing appropriation item CAP-068, Third Frontier Project, for which an appropriation is made from the Higher Education Improvement Fund (Fund 034), is determined to consist of capital improvements and capital facilities for state-supported and state-assisted institutions of higher education, and is designated for the capital facilities to which proceeds of obligations in the Higher Education Improvement Fund (Fund 034) are to be applied.

SECTION 19.08. REIMBURSEMENT FOR PROJECT COSTS

Appropriations made in Sections 19.08 to 19.48 of this act for purposes of costs of capital facilities for the interim financing of which the particular institution has previously issued its own obligations anticipating the possibility of future state appropriations to pay all or a portion of such costs, as contemplated in division (B) of section 3345.12 of the Revised Code,

shall be paid directly to the institution or the paying agent for those outstanding obligations in the full principal amount of those obligations then to be paid from the anticipated appropriation, and shall be timely applied to the retirement of a like principal amount of the institutional obligations.

Appropriations made in Sections 19.09 to 19.48 of this act for purposes of costs of capital facilities, all or a portion of which costs the particular institution has paid from the institution's moneys that were temporarily available and which payments were reasonably expected to be reimbursed from the proceeds of obligations issued by the state, shall be directly paid to the institution in the full amounts of those payments, and shall be timely applied to the reimbursement of those temporarily available moneys.

			Appropriations
SECTION 19.09. UAK UNIVERSITY OF AKRON			
CAP-008	Basic Renovations	\$	4,335,026
CAP-049	Basic Renovations - Wayne	\$	144,004
CAP-054	Auburn West Tower Rehab Ph1	\$	3,950,000
CAP-080	Medina Learning Center	\$	750,000
CAP-098	Guzzetta Hall Addition	\$	7,784,808
CAP-099	D-Wing Expansion	\$	243,750
CAP-100	Classroom/Office Addition (Design)	\$	120,120
CAP-101	National Polymer Processing Center	\$	1,000,000
Total University of Akron			\$ 18,327,708

			Appropriations
SECTION 19.10. BGU BOWLING GREEN STATE UNIVERSITY			
CAP-009	Basic Renovations	\$	3,975,578
CAP-060	Basic Renovations - Firelands	\$	219,586
CAP-109	Cedar Point Community Center Ph3 - Firelands	\$	862,684
CAP-112	Biology Laboratory Building Ph1	\$	1,174,982
CAP-119	Admissions Visitor Center	\$	3,000,000
CAP-120	Theater (Performing Arts) Complex	\$	8,750,000
CAP-121	University Hall Rehabilitation Ph1	\$	1,174,981
CAP-122	Convocation Center	\$	50,000
Total Bowling Green State University			\$ 19,207,811

			Appropriations
SECTION 19.11. CSU CENTRAL STATE UNIVERSITY			
CAP-022	Basic Renovations	\$	932,692
CAP-084	Academic Facility - Phase I	\$	7,114,345
Total Central State University			\$ 8,047,037

Appropriations

SECTION 19.12. UCN UNIVERSITY OF CINCINNATI

CAP-009	Basic Renovations	\$	8,370,968
CAP-018	Basic Renovations - Clermont	\$	227,093
CAP-054	Raymond Walters Renovations	\$	361,987
CAP-174	Classroom/Teaching Laboratory Renovations	\$	7,270,000
CAP-176	Network Expansion	\$	1,820,000
CAP-177	Critical Building Component Renovations	\$	4,800,000
CAP-205	Medical Science Building	\$	7,000,000
CAP-206	One Stop Services Center	\$	4,783,000
CAP-207	Central Campus Infrastructure	\$	186,941
CAP-208	Security System Upgrade	\$	260,000
CAP-209	Library Renovations	\$	800,000
CAP-211	Cincinnati Symphony Facility Improvements	\$	500,000
CAP-224	Van Wormer Administrative Building Rehabilitation	\$	1,125,750
CAP-262	Central Campus Renovations	\$	579,000
CAP-263	Swift Rehabilitation	\$	1,260,000
CAP-264	McMicken Window Replacement	\$	1,000,000
CAP-265	Rieveschl/Crosley Rehab/Expansion	\$	490,000
CAP-266	Muntz Rehabilitation Ph2	\$	1,443,210
CAP-267	Muntz Classroom/Office Upgrades	\$	16,297
CAP-269	Raymond Walters Veterinary College	\$	400,000
	Total University of Cincinnati	\$	42,694,246

Appropriations

SECTION 19.13. CLS CLEVELAND STATE UNIVERSITY

CAP-023	Basic Renovations	\$	4,928,093
CAP-109	Main Classroom Lecture Hall Renovation Ph4	\$	1,100,000
CAP-125	College of Education Building	\$	8,786,384
CAP-128	Property Acquisition	\$	2,000,000
CAP-142	Rhodes Tower Library Roof Replacement	\$	1,170,372
CAP-143	Cleveland Food Bank	\$	500,000
CAP-144	Rhodes Tower Plaza Renovations Ph2	\$	1,300,000
CAP-145	Cleveland Manufacturers Technology Complex	\$	500,000
	Total Cleveland State University	\$	20,284,849

Appropriations

SECTION 19.14. KSU KENT STATE UNIVERSITY

CAP-022	Basic Renovations	\$	4,185,475
CAP-105	Basic Renovations - East Liverpool	\$	171,174
CAP-106	Basic Renovations - Geauga	\$	57,769
CAP-107	Basic Renovations - Salem	\$	120,703
CAP-108	Basic Renovations - Stark	\$	397,489
CAP-110	Basic Renovations - Ashtabula	\$	204,939
CAP-111	Basic Renovations - Trumbull	\$	377,709
CAP-112	Basic Renovations - Tuscarawas	\$	201,082
CAP-142	Music Center Improvements	\$	2,500,000
CAP-207	Kent Hall Planning and Addition	\$	11,220,000
CAP-212	Technology Building Addition	\$	832,593
CAP-234	Terrace Drive Heating Plant Rehab Ph1	\$	2,274,122
CAP-235	Rehabilitation of Franklin Hall - Planning	\$	1,815,000

CAP-236	East Campus Utilities Tunnel	\$	1,750,000
CAP-237	Classroom Building Interior Renovation	\$	1,015,746
CAP-238	Roof Replacement, Classroom Building	\$	288,939
CAP-239	Classroom Building Roof, Coping, Fascia Restoration	\$	581,919
CAP-240	Roadway/Parking Lot Improvements Ph1	\$	250,000
CAP-241	Main Hall Selective Interior Renovation Ph1	\$	146,547
CAP-242	Workforce Development Building	\$	1,156,076
CAP-243	Classroom Building Interior Renovation	\$	804,594
CAP-244	Fine Arts Building Addition	\$	1,300,000
Total Kent State University		\$	31,651,876

Appropriations

SECTION 19.15. MUN MIAMI UNIVERSITY

CAP-018	Basic Renovations	\$	3,937,819
CAP-066	Basic Renovations - Hamilton	\$	403,506
CAP-069	Basic Renovations - Middletown	\$	400,104
CAP-089	N. Campus High Voltage Feeder Improvements	\$	350,000
CAP-096	McGuffey Hall Rehab Ph3	\$	9,000,000
CAP-099	King Library Ground & 3rd Fl Rehab	\$	3,000,000
CAP-113	Academic/Administrative Renovation Projects - Hamilton	\$	496,422
CAP-114	Chilled Water Loop - Middletown	\$	350,000
CAP-115	Academic/Admin Renovation Projects - Middletown	\$	688,506
CAP-127	Campus Steam Loop Connections	\$	350,000
CAP-131	Miami University Learning Center - Middletown	\$	1,000,000
CAP-142	Engineering & Applied Science Facility (Planning)	\$	500,000
CAP-143	Warfield Hall Rehab	\$	250,000
CAP-145	Campus Chilled Water Efficiency Upgrade	\$	339,109
CAP-146	Information Technology Systems Upgrade	\$	811,969
CAP-147	Central Campus Water & Sewer Improvements	\$	350,000
CAP-149	Parrish Auditorium Rehab	\$	700,000
CAP-150	Student & Community Center	\$	400,000
Total Miami University		\$	23,327,435

Appropriations

SECTION 19.16. OSU OHIO STATE UNIVERSITY

CAP-074	Basic Renovations	\$	19,402,364
CAP-149	Basic Renovations - Regional Campuses	\$	1,519,898
CAP-255	Supplemental Renovations - OARDC	\$	1,760,278
CAP-427	Morrill Hall Renovation - 1st Floor Rehab	\$	730,742
CAP-486	Larkins Hall Addition and Rehab	\$	20,023,667
CAP-487	Robinson Laboratory Replacement	\$	20,000,000
CAP-531	Animal/Plant Bio L-3 Isolation Fac, Ph1	\$	2,000,000
CAP-534	Main Library Rehabilitation/Expansion	\$	4,200,000
CAP-535	Psychology Building	\$	15,000,000
CAP-618	Laboratory Animal Facilities	\$	6,700,000
CAP-619	Fry Hall Building Addition	\$	3,600,000
CAP-620	School of Music (Planning)	\$	250,000
CAP-621	J. Gilbert Reese Center	\$	3,358,924
CAP-622	Western Branch HQ's and Machinery Building	\$	850,000

CAP-623	Piketon Training and Development Center	\$	900,000
CAP-624	Muck Crops Branch Office/Shop Building Replacement	\$	825,000
CAP-625	Hazardous Waste Handling/Storage Building	\$	1,103,062
CAP-626	Agricultural/Engineering Building Renovation and Addition	\$	200,000
CAP-628	Wood County Center for Agriculture	\$	1,000,000
CAP-629	Community Heritage Art Gallery - Lima	\$	100,000
Total Ohio State University		\$	103,523,934

Appropriations

SECTION 19.17. OHU OHIO UNIVERSITY

CAP-020	Basic Renovations	\$	4,906,331
CAP-095	Basic Renovations - Eastern	\$	192,413
CAP-098	Basic Renovations - Lancaster	\$	255,635
CAP-099	Basic Renovations - Zanesville	\$	243,268
CAP-113	Basic Renovations - Chillicothe	\$	227,923
CAP-114	Basic Renovations - Ironton	\$	131,128
CAP-115	Bennett Hall Interior Renovation Ph2	\$	828,166
CAP-155	Brasee Hall Interior Renovations	\$	1,043,079
CAP-164	Southeast Library Warehouse	\$	235,885
CAP-169	Elevator Completion	\$	70,000
CAP-172	Elson Hall Renovation Ph3	\$	1,075,726
CAP-212	Exterior Site Improvement	\$	248,065
CAP-213	Daycare Center	\$	447,950
CAP-214	Science/Fine Arts Renovation Ph2	\$	725,213
CAP-215	Land - Use Plan for Future Development	\$	30,000
CAP-216	Proctorville Planning and Site Improvements	\$	141,474
Total Ohio University		\$	10,802,256

Appropriations

SECTION 19.18. SSC SHAWNEE STATE UNIVERSITY

CAP-004	Basic Renovations	\$	936,147
CAP-044	Land Acquisition	\$	123,223
CAP-045	Health Sciences Rehabilitation Ph2	\$	965,000
CAP-047	Natatorium Rehabilitation	\$	450,000
CAP-048	Facilities Building Renovation	\$	242,120
Total Shawnee State University		\$	2,716,490

Appropriations

SECTION 19.19. UTO UNIVERSITY OF TOLEDO

CAP-010	Basic Renovations	\$	4,599,389
CAP-105	Gillham Hall Rehabilitation	\$	9,382,871
CAP-115	Palmer Hall - 3rd Fl Classroom Renovation	\$	2,200,000
CAP-116	Bowman-Oddy - N Wing Reno	\$	5,207,000
Total University of Toledo		\$	21,389,260

Appropriations

SECTION 19.20. WSU WRIGHT STATE UNIVERSITY

CAP-015	Basic Renovations	\$	3,205,721
CAP-064	Basic Renovations - Lake	\$	107,667
CAP-093	Information Technology Center	\$	451
CAP-103	Millett Hall Rehabilitation	\$	2,417,500
CAP-110	Student Union Marketplace	\$	1,000,000
CAP-115	Russ Engineering Expansion	\$	2,631,000
CAP-116	Rike Hall Renovation (Planning)	\$	200,000
CAP-117	Electrical Infrastructure Ph1	\$	2,100,000
CAP-118	Campus Master Plan Phase V-a	\$	1,430,828
CAP-119	Science Lab Renovations (Planning)	\$	500,000
CAP-120	Lake Campus University Center	\$	587,200
Total Wright State University		\$	14,180,367

Appropriations

SECTION 19.21. YSU YOUNGSTOWN STATE UNIVERSITY

CAP-014	Basic Renovations	\$	2,823,822
CAP-108	Technology Upgrades	\$	2,134,014
CAP-113	Campus Development	\$	850,000
CAP-114	Steam Distribution & Central Utility Plant Upgrades	\$	775,000
CAP-121	Administrative Technology Computer Systems Improvements	\$	1,500,000
CAP-123	Campus-wide Electrical Upgrades	\$	1,000,000
CAP-124	Classroom Updates	\$	800,000
CAP-125	Campus-wide Building Systems Upgrades	\$	400,000
CAP-126	Technology Upgrades	\$	2,134,014
CAP-127	Recreation and Wellness Center	\$	1,000,000
CAP-128	Technology Incubator for Market-Ready Applications	\$	1,000,000
Total Youngstown State University		\$	12,282,836

Appropriations

SECTION 19.22. MCO MEDICAL COLLEGE OF OHIO

CAP-010	Basic Renovations	\$	1,487,065
CAP-066	Core Research Facility	\$	2,386,440
CAP-076	Supplemental Renovations	\$	880,000
CAP-077	Academic/Classroom Improvements	\$	400,000
CAP-078	Clinical Academic Renovation	\$	700,000
Total Medical College of Ohio		\$	5,853,505

Appropriations

SECTION 19.23. NEM NORTHEASTERN OHIO UNIVERSITIES COLLEGE OF MEDICINE

CAP-018	Basic Renovations	\$	479,162
CAP-022	Cooperative Regional Library Depository - NE	\$	452,200
CAP-045	Renovation of Olson and Meshel Halls	\$	1,341,849
Total Northeastern Ohio Universities College of Medicine		\$	2,273,211

		Appropriations
SECTION 19.24. CTC CINCINNATI STATE COMMUNITY COLLEGE		
CAP-013	Basic Renovations	\$ 833,126
CAP-030	Student Life/Education Building	\$ 3,700,000
CAP-033	One Stop Shop Renovation	\$ 547,860
CAP-034	Rekeying of Main Campus	\$ 365,160
CAP-035	Install Kiosks	\$ 150,450
Total Cincinnati State Community College		\$ 5,596,596

		Appropriations
SECTION 19.25. CLT CLARK STATE COMMUNITY COLLEGE		
CAP-006	Basic Renovations	\$ 468,266
CAP-039	Champaign Health & Education Center	\$ 100,000
CAP-040	Clark Health & Education Center	\$ 50,000
Total Clark State Community College		\$ 618,266

		Appropriations
SECTION 19.26. CTI COLUMBUS STATE COMMUNITY COLLEGE		
CAP-006	Basic Renovations	\$ 1,172,318
CAP-040	Academic Building D	\$ 17,585,528
CAP-043	Building E - Planning	\$ 1,022,862
Total Columbus State Community College		\$ 19,780,708

		Appropriations
SECTION 19.27. CCC CUYAHOGA COMMUNITY COLLEGE		
CAP-031	Basic Renovations	\$ 2,650,707
CAP-079	Cleveland Art Museum Improvements	\$ 5,000,000
CAP-084	East I Renovations, Ph2 (Eastern)	\$ 4,339,089
CAP-085	Building A Expansion Module (Western)	\$ 4,157,148
CAP-087	Center for Nursing & Health Careers	\$ 1,400,000
CAP-088	Corporate College	\$ 500,000
Total Cuyahoga Community College		\$ 18,046,944

		Appropriations
SECTION 19.28. ESC EDISON STATE COMMUNITY COLLEGE		
CAP-006	Basic Renovations	\$ 295,110
Total Edison State Community College		\$ 295,110

		Appropriations
SECTION 19.29. JTC JEFFERSON COMMUNITY COLLEGE		
CAP-022	Basic Renovations	\$ 242,523
CAP-041	Campus Master Plan	\$ 189,442

Total Jefferson Community College \$ 431,965

Appropriations

SECTION 19.30. LCC LAKELAND COMMUNITY COLLEGE

CAP-006	Basic Renovations	\$	972,671
CAP-037	C Building East End Project	\$	985,000
CAP-038	HVAC Upgrades/Rehabilitation	\$	1,000,000
CAP-039	Main Gym Floor Renov	\$	150,000
CAP-040	Roadway and Drainage Improvements	\$	632,756
CAP-043	Mooreland Educational Center Rehab	\$	115,000
Total Lakeland Community College		\$	3,855,427

Appropriations

SECTION 19.31. LOR LORAIN COMMUNITY COLLEGE

CAP-005	Basic Renovations	\$	1,132,268
Total Lorain Community College		\$	1,132,268

Appropriations

SECTION 19.32. NTC NORTHWEST STATE COLLEGE

CAP-003	Basic Renovations	\$	268,822
CAP-021	Services Facility	\$	200,000
Total Northwest State Community College		\$	468,822

Appropriations

SECTION 19.33. OTC OWENS COMMUNITY COLLEGE

CAP-019	Basic Renovations	\$	1,385,769
CAP-037	Education Center	\$	8,746,360
CAP-038	Fire and Police Training Center	\$	1,145,610
Total Owens Community College		\$	11,277,739

Appropriations

SECTION 19.34. RGC RIO GRANDE COMMUNITY COLLEGE

CAP-005	Basic Renovations	\$	371,653
Total Rio Grande Community College		\$	371,653

Appropriations

SECTION 19.35. SCC SINCLAIR COMMUNITY COLLEGE

CAP-007	Basic Renovations	\$	2,231,992
Total Sinclair Community College		\$	2,231,992

		Appropriations	
SECTION 19.36. SOC SOUTHERN STATE COMMUNITY COLLEGE			
CAP-010	Basic Renovations	\$	293,585
CAP-025	Multi-Purpose Facility	\$	1,000,000
Total Southern State Community College		\$	1,293,585

		Appropriations	
SECTION 19.37. TTC TERRA STATE COMMUNITY COLLEGE			
CAP-009	Basic Renovations	\$	315,419
Total Terra State Community College		\$	315,419

		Appropriations	
SECTION 19.38. WTC WASHINGTON STATE COMMUNITY COLLEGE			
CAP-006	Basic Renovations	\$	262,586
Total Washington State Community College		\$	262,586

		Appropriations	
SECTION 19.39. BTC BELMONT TECHNICAL COLLEGE			
CAP-008	Basic Renovations	\$	214,638
Total Belmont Technical College		\$	214,638

		Appropriations	
SECTION 19.40. COT CENTRAL OHIO TECHNICAL COLLEGE			
CAP-003	Basic Renovations	\$	210,616
CAP-011	J. Gilbert Reese Center	\$	2,209,867
Total Central Ohio Technical College		\$	2,420,483

		Appropriations	
SECTION 19.41. HTC HOCKING TECHNICAL COLLEGE			
CAP-019	Basic Renovations	\$	487,064
CAP-034	Student Center - Ph III	\$	2,192,550
CAP-040	Lake Snowden	\$	1,446,150
Total Hocking Technical College		\$	4,125,764

		Appropriations	
SECTION 19.42. LTC LIMA TECHNICAL COLLEGE			
CAP-004	Basic Renovations	\$	316,757
CAP-015	Information Technology Building	\$	3,767,610

Total Lima Technical College \$ 4,084,367

Appropriations

SECTION 19.43. MTC MARION TECHNICAL COLLEGE

CAP-004	Basic Renovations	\$	116,271
CAP-012	Technical Education Center Rehab	\$	257,501
Total Marion Technical College		\$	373,772

Appropriations

SECTION 19.44. MAT MUSKINGUM AREA TECHNICAL COLLEGE

CAP-007	Basic Renovations	\$	239,685
CAP-020	Atwood Lake Resort & Conference Center Facility Improvements	\$	250,000
CAP-021	Lighting/HVAC Replacement	\$	843,606
Total Muskingum Area Technical College		\$	1,333,291

Appropriations

SECTION 19.45. NCC NORTH CENTRAL TECHNICAL COLLEGE

CAP-003	Basic Renovations	\$	352,422
Total North Central Technical College		\$	352,422

Appropriations

SECTION 19.46. STC STARK TECHNICAL COLLEGE

CAP-004	Basic Renovations	\$	477,277
CAP-032	Automotive Tech Building Addition	\$	1,719,554
Total Stark Technical College		\$	2,196,831
Total Board of Regents and State Institutions of Higher Education		\$	554,468,469
TOTAL Higher Education Improvement Fund		\$	554,469,095

SECTION 19.47. DEBT SERVICE FORMULA ALLOCATION

Based on the foregoing appropriations in Sections 19.09 to 19.46 of this act, from Fund 034, 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 2004:

INSTITUTION	AMOUNT
University of Akron	\$11,734,808
University of Akron - Wayne	\$363,870
Bowling Green State University	\$14,099,963
Bowling Green State University - Firelands	\$862,684

Central State University	\$2,614,345
University of Cincinnati	\$31,374,691
University of Cincinnati - Walters	\$1,459,507
Cleveland State University	\$14,356,756
Kent State University	\$17,059,122
Kent State University - Ashtabula	\$832,593
Kent State University - East Liverpool	\$804,594
Kent State University - Geauga	\$288,939
Kent State University - Salem	\$581,919
Kent State University - Stark	\$1,696,547
Kent State University - Trumbull	\$1,156,076
Kent State University - Tuscarawas	\$1,015,746
Miami University	\$14,951,078
Miami University - Hamilton	\$1,196,422
Miami University - Middletown	\$1,438,506
Ohio State University	\$69,773,667
Ohio State University - Marion	\$730,742
Ohio State University - Newark	\$3,358,924
Ohio State University - OARDC	\$5,878,062
Ohio University - Eastern	\$755,213
Ohio University - Chillicothe	\$1,076,231
Ohio University - Ironton	\$589,424
Ohio University - Lancaster	\$1,113,079
Ohio University - Zanesville	\$1,075,726
Shawnee State University	\$1,780,343
University of Toledo	\$16,789,871
Wright State University	\$10,279,328
Wright State University - Lake	\$587,200
Youngstown State University	\$8,459,014
Medical College of Ohio	\$4,366,440
Northeastern Ohio Universities College of Medicine	\$1,341,849
Cincinnati State Community College	\$1,063,470
Columbus State Community College	\$4,108,390
Cuyahoga Community College	\$9,896,237
Jefferson Community College	\$189,442
Lakeland Community College	\$2,882,756
Owens Community College	\$4,715,560
Central Ohio Technical College	\$2,209,867
Hocking Technical College	\$3,638,700
Lima Technical College	\$3,767,610

Marion Technical College	\$257,501
Muskingum Area Technical College	\$843,606
Stark Technical College	\$1,719,554

Institutions not listed above shall not have a debt service obligation as a result of these appropriations.

Within sixty days after the effective date of this section, 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 such notification, the Board of Regents may release the institution from its debt service obligation for the specific project.

SECTION 19.48. For all of the foregoing appropriation items from the Higher Education Improvement Fund (Fund 034) that require local funds to be contributed by any state-supported or state-assisted institution of higher education, the Ohio Board of Regents shall not recommend that any funds be released until the recipient institution demonstrates to the Board of Regents and the Office of Budget and Management that the local funds contribution requirement has been secured or satisfied. The local funds shall be in addition to the foregoing appropriations.

SECTION 19.49. The Ohio Public Facilities Commission is hereby authorized to issue and sell, in accordance with Section 2n of Article VIII, Ohio Constitution, Chapter 151. and particularly sections 151.01 and 151.04 of the Revised Code, original obligations in an aggregate principal amount not to exceed \$536,690,000, in addition to the original issuance of obligations heretofore authorized by prior acts of the General Assembly. The authorized obligations shall be issued, subject to applicable constitutional and statutory limitations, to pay costs of capital facilities as defined in sections 151.01 and 151.04 of the Revised Code for state-supported and state-assisted institutions of higher education.

SECTION 19.50. None of the foregoing capital improvements appropriations for state-supported or state-assisted institutions of higher education shall be expended until the particular appropriation has been recommended for release by the Ohio Board of Regents and released by the Director of Budget and Management or the Controlling Board. Either the institution concerned, or the Ohio Board of Regents with the concurrence of the institution concerned, may initiate the request to the Director of Budget

and Management or the Controlling Board for the release of the particular appropriations.

SECTION 19.51. No capital improvement appropriations made in Sections 19.02 to 19.48 of this act shall be released for planning or for improvement, renovation, construction, or acquisition of capital facilities if the institution of higher education or the state does not own the real property on which the capital facilities are or will be located. This restriction does not apply in any of the following circumstances:

(1) The institution has a long-term (at least fifteen years) lease of, or other interest (such as an easement) in, the real property.

(2) The Ohio Board of Regents certifies to the Controlling Board that undue delay will occur if planning does not proceed while the property or property interest acquisition process continues. In this case, funds may be released upon approval of the Controlling Board to pay for planning through the development of schematic drawings only.

(3) In the case of an appropriation for capital facilities that, because of their unique nature or location, will be owned or will be part of facilities owned by a separate nonprofit organization or public body and will be made available to the institution of higher education for its use, the nonprofit organization or public body either owns or has a long-term (at least fifteen years) lease of the real property or other capital facility to be improved, renovated, constructed, or acquired and has entered into a joint or cooperative use agreement with the institution of higher education that meets the requirements of division (C) of this section.

(B) Any foregoing appropriations which require cooperation between a technical college and a branch campus of a university may be released by the Controlling Board upon recommendation by the Ohio Board of Regents that the facilities proposed by the institutions are:

(1) The result of a joint planning effort by the university and the technical college, satisfactory to the Ohio Board of Regents;

(2) Facilities that will meet the needs of the region in terms of technical and general education, taking into consideration the totality of facilities which will be available after the completion of these projects;

(3) Planned to permit maximum joint use by the university and technical college of the totality of facilities which will be available upon their completion; and

(4) To be located on or adjacent to the branch campus of the university.

(C) The Ohio Board of Regents shall adopt rules regarding the release of moneys from all the foregoing appropriations for capital facilities for all

state-supported or state-assisted institutions of higher education. In the case of capital facilities referred to in division (A)(3) of this section, the joint or cooperative use agreements shall include, as a minimum, provisions that:

(1) Specify the extent and nature of that joint or cooperative use, extending for not fewer than fifteen years, with the value of such use or right to use to be, as to be determined by the parties and approved by the Board of Regents, reasonably related to the amount of the appropriations;

(2) Provide for pro rata reimbursement to the state should the arrangement for joint or cooperative use be terminated;

(3) Provide that procedures to be followed during the capital improvement process will comply with appropriate applicable state laws and rules, including provisions of this act; and

(4) Provide for payment or reimbursement to the institution of its administrative costs incurred as a result of the facilities project, not to exceed 1.5 per cent of the appropriated amount.

(D) Upon the recommendation of the Ohio Board of Regents, the Controlling Board may approve the transfer of appropriations for projects requiring cooperation between institutions from one institution to another institution with the approval of both institutions.

(E) Notwithstanding section 127.14 of the Revised Code, the Controlling Board, upon the recommendation of the Ohio Board of Regents, may transfer amounts appropriated to the Ohio Board of Regents to accounts of state-supported or state-assisted institutions created for that same purpose.

SECTION 19.52. The requirements of Chapters 123. and 153. of the Revised Code, with respect to the powers and duties of the Director of Administrative Services, and the requirements of section 127.16 of the Revised Code, with respect to the Controlling Board, shall not apply to projects of community college districts, which include Cuyahoga Community College, Jefferson Community College, Lakeland Community College, Lorain County Community College, Rio Grande Community College, and Sinclair Community College; and technical college districts which include Belmont Technical College, Central Ohio Technical College, Hocking Technical College, Lima Technical College, Marion Technical College, Muskingum Area Technical College, North Central Technical College, and Stark Technical College.

SECTION 19.53. Those institutions locally administering capital

improvement projects pursuant to section 3345.50 of the Revised Code may:

(A) Establish charges for recovering costs directly related to project administration as defined by the Director of Administrative Services. The Department of Administrative Services shall review and approve these administrative charges when such charges are in excess of 1.5 per cent of the total construction budget.

(B) Seek reimbursement from state capital appropriations to the institution for the in-house design services performed by the institution for such capital projects. Acceptable charges shall be limited to design document preparation work that is done by the institution. These reimbursable design costs shall be shown as "A/E fees" within the project's budget that is submitted to the Controlling Board or the Director of Budget and Management as part of a request for release of funds. The reimbursement for in-house design shall not exceed seven per cent of the estimated construction cost.

SECTION 20.01. 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) that are not otherwise appropriated.

		Appropriations
DNR DEPARTMENT OF NATURAL RESOURCES		
CAP-012	Land Acquisition	\$ 6,800,000
CAP-017	Indian Lake State Park	\$ 125,000
CAP-044	Ohio Zoo Consortium	\$ 1,000,000
CAP-045	Mary Jane Thurston State Park - Marina & Dock Renovation	\$ 300,000
CAP-331	Park Boating Facilities	\$ 1,829,520
CAP-390	State Park Maintenance/Facility Development - Middle Bass Island	\$ 2,000,000
CAP-718	Grand Lake St Mary's State Park	\$ 250,000
CAP-727	Riverfront Improvements	\$ 450,000
CAP-748	Local Parks Projects	\$ 4,220,000
CAP-787	Scioto Riverfront Improvements	\$ 3,000,000
CAP-876	Statewide Trails Program	\$ 430,000
CAP-928	Statewide Accessibility Improvements	\$ 250,000
CAP-931	Statewide Wastewater/Water Systems Upgrade	\$ 2,000,000
Total Department of Natural Resources		\$ 22,654,520
TOTAL Parks and Recreation Improvement Fund		\$ 22,654,520

RIVERFRONT IMPROVEMENTS

Of the foregoing appropriation item CAP-727, Riverfront Improvements, \$100,000 shall be used for the Spencerville Canal Improvements and \$350,000 shall be used for the Rush Creek and Upper Hocking Project.

SCIOTO RIVERFRONT IMPROVEMENTS

Of the foregoing appropriation item CAP-787, Scioto Riverfront Improvements, \$1,000,000 shall be used for the Spring and Long Park and \$2,000,000 shall be used for the Riverfront Park.

STATEWIDE TRAILS PROGRAMS

Of the foregoing appropriation item CAP-876, Statewide Trails Programs, \$50,000 shall be used for the Strongsville Trail Project; \$30,000 shall be used for Fairfield Heritage Trails; \$250,000 shall be used for the Ohio to Erie Bike Trail; and \$100,000 shall be used for the Upper Sandusky Bike Path.

FEDERAL REIMBURSEMENT

All reimbursements received from the federal government for any expenditures made pursuant to this section shall be deposited in the state treasury to the credit of the Parks and Recreation Improvement Fund (Fund 035).

LOCAL PARKS PROJECTS

Of the foregoing appropriation item CAP-748, Local Parks Projects, \$1,500,000 shall be used for Cleveland Lakefront Park Improvements; \$500,000 shall be used for Colerain Township Park Improvements; \$250,000 shall be used for the Cuyahoga Falls Riverfront Mall Festival Site; \$50,000 shall be used for Smith Field Park Improvements; \$650,000 shall be used for Belmont County Park Improvements; \$50,000 shall be used for St. Clairsville Park Improvements; \$50,000 shall be used for Mt. Orab Park Improvements; \$50,000 shall be used for Sardinia Park Improvements; \$50,000 shall be used for Liberty Township Playground; \$100,000 shall be used for Gallipolis City Park Improvements; \$100,000 shall be used for Lake County Perry Township Park Improvements; \$10,000 shall be used for Russells Point Park Improvements; \$40,000 shall be used for Zanesville Park Improvements; \$30,000 shall be used for New Lexington Park Improvements; \$50,000 shall be used for Somerset Park Improvements; \$20,000 shall be used for Junction City Park Improvements; \$50,000 shall be used for Shelly Park Improvements; \$50,000 shall be used for the Mt. Gilead Headwaters Shelter; \$25,000 shall be used for the Richland County Korean War Memorial; \$350,000 shall be used for Pine Hills Lakes; \$200,000 shall be used for the Goll Woods Nature Preserve; \$15,000 shall be used for Ryan Park Improvements; \$15,000 shall be used for Circleville Park Improvements; \$15,000 shall be used for Corning Downtown Park Improvements.

SECTION 20.02. The Treasurer of State is hereby authorized to issue and

sell, in accordance with Section 2i of Article VIII, Ohio Constitution, and Chapter 154. of the Revised Code, particularly section 154.22 of the Revised Code, original obligations in an aggregate principal amount not to exceed \$22,000,000, in addition to the original issuance of obligations heretofore authorized by prior acts of the General Assembly. The authorized obligations shall be issued, subject to applicable constitutional and statutory limitations, to pay the costs of capital facilities as defined in section 154.01 of the Revised Code.

SECTION 20.03. (A) No capital improvement appropriations made in Section 20.01 of this act shall be released for planning or for improvement, renovation, or construction or acquisition of capital facilities if a governmental agency, as defined in section 154.01 of the Revised Code, does not own the real property that constitutes the capital facilities or on which the capital facilities are or will be located. This restriction does not apply in any of the following circumstances:

(1) The governmental agency has a long-term (at least fifteen years) lease of, or other interest (such as an easement) in, the real property;

(2) In the case of an appropriation for capital facilities for parks and recreation that, because of their unique nature or location, will be owned or be part of facilities owned by a separate nonprofit organization and made available to the governmental agency for its use or operated by the nonprofit organization under contract with the governmental agency, the nonprofit organization either owns or has a long-term (at least fifteen years) lease of the real property or other capital facility to be improved, renovated, constructed, or acquired and has entered into a joint or cooperative use agreement, approved by the Department of Natural Resources, with the governmental agency for that agency's use of and right to use the capital facilities to be financed and, if applicable, improved, the value of such use or right to use being, as determined by the parties, reasonably related to the amount of the appropriation.

(B) In the case of capital facilities referred to in division (A)(2) of this section, the joint or cooperative use agreement shall include, as a minimum, provisions that:

(1) Specify the extent and nature of that joint or cooperative use, extending for not fewer than fifteen years, with the value of such use or right to use to be, as determined by the parties and approved by the approving department, reasonably related to the amount of the appropriation;

(2) Provide for pro rata reimbursement to the state should the arrangement for joint or cooperative use by a governmental agency be

terminated; and

(3) Provide that procedures to be followed during the capital improvement process will comply with appropriate applicable state laws and rules, including provisions of this act.

SECTION 21.01. All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Clean Ohio Conservation Fund (Fund 056) that are not otherwise appropriated.

		Appropriations
PWC PUBLIC WORKS COMMISSION		
CAP-152	Clean Ohio Conservation	\$ 37,500,000
	Total Public Works Commission	\$ 37,500,000
	TOTAL Clean Ohio Conservation Fund	\$ 37,500,000

The foregoing appropriation item CAP-152, Clean Ohio Conservation, shall be used in accordance with sections 164.20 to 164.27 of the Revised Code. If the Public Works Commission receives refunds due to project overpayments that are discovered during the post-project audit, the Director of the Public Works Commission may certify to the Director of Budget and Management that refunds have been received. If the Director of Budget and Management determines that project refunds are available to support additional appropriations, such amounts are hereby appropriated.

SECTION 21.02. The Ohio Public Facilities Commission is hereby authorized to issue and sell, in accordance with Section 2o of Article VIII, Ohio Constitution, and sections 151.01 and 151.09 of the Revised Code, original obligations in an aggregate principal amount not to exceed \$50,000,000, in addition to the original issuance of obligations heretofore authorized by prior acts of the General Assembly. These authorized obligations shall be issued, subject to applicable constitutional and statutory limitations, as needed to ensure sufficient moneys to the credit of the Clean Ohio Conservation Fund (Fund 056), the Clean Ohio Agricultural Easement Fund (Fund 057), and the Clean Ohio Trail Fund (Fund 061) to pay costs of conservation projects as defined in sections 151.01 and 151.09 of the Revised Code.

SECTION 21.03. All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Clean Ohio Agricultural Easement Fund (Fund 057) that are not otherwise

appropriated.

		Appropriations
AGR DEPARTMENT OF AGRICULTURE		
CAP-047	Clean Ohio Agricultural Easement	\$ 6,250,000
Total Department of Agriculture		\$ 6,250,000
TOTAL Clean Ohio Agricultural Easement Fund		\$ 6,250,000

SECTION 21.04. All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Clean Ohio Trail Fund (Fund 061), that are not otherwise appropriated.

		Appropriations
DNR DEPARTMENT OF NATURAL RESOURCES		
CAP-014	Clean Ohio Trail	\$ 6,250,000
Total Department of Natural Resources		\$ 6,250,000
TOTAL Clean Ohio Trail Fund		\$ 6,250,000

SECTION 22.01. CERTIFICATION OF RENTAL PAYMENTS

Each request for release of appropriations for any and all capital improvements and capital facilities for which appropriations are made in this act from the proceeds of obligations in the Sports Facilities Building Fund (Fund 024), the Administrative Building Fund (Fund 026), the Adult Correctional Building Fund (Fund 027), the Juvenile Correctional Building Fund (Fund 028), the Arts Facilities Building Fund (Fund 030), the Natural Resources Projects Fund (Fund 031), the School Building Program Assistance Fund (Fund 032), the Mental Health Facilities Improvement Fund (Fund 033), the Higher Education Improvement Fund (Fund 034), and the Parks and Recreation Improvements Fund (Fund 035) shall have the certification of the Director of Budget and Management that sufficient General Revenue Fund moneys are appropriated for and will be available for rental payments to the Ohio Public Facilities Commission, the Treasurer of State, and the Ohio Building Authority in the then-current fiscal biennium relating to obligations or portions of obligations issued or to be issued in that fiscal biennium to fund, in the then-current fiscal biennium, anticipated expenditures from these funds associated with the request.

SECTION 22.02. HIGHWAY SAFETY FUND CERTIFICATION OF RENTAL PAYMENTS

No money shall be encumbered for any capital improvements and capital facilities for which appropriations are made in excess of the cash balances from the proceeds of obligations in the Highway Safety Building

Fund (Fund 025) unless the Director of Budget and Management certifies that sufficient Highway Safety Fund moneys are appropriated and available for rental payments to the Ohio Building Authority for debt service payments by the state in the then-current fiscal biennium relating to obligations or portions of obligations issued or to be issued in that fiscal biennium to fund, in the then-current fiscal biennium, anticipated expenditures from these funds associated with related encumbrances.

SECTION 23.01. CERTIFICATION OF AVAILABILITY OF MONEYS

No moneys that require release may be expended from any appropriation contained in this act without certification of the Director of Budget and Management that there are sufficient moneys in the state treasury in the fund from which the appropriation is made. Such certification shall be based on estimates of revenue, receipts, and expenses. Nothing herein shall be construed as a limitation on the authority of the Director of Budget and Management under section 126.07 of the Revised Code.

SECTION 23.02. LIMITATIONS ON CAPITAL APPROPRIATIONS

The appropriations made in this act excluding those made to the State Capital Improvement Fund (Fund 038) and the State Capital Improvements Revolving Loan Fund (Fund 040) for buildings or structures, including remodeling and renovations, are limited to:

- (A) Acquisition of real property or interest in real property;
- (B) Buildings and structures, which includes construction, demolition, lighting and lighting fixtures, and all necessary utilities, heating and ventilating, plumbing, sprinkling, and sewer systems, when such systems are authorized or necessary;
- (C) Architectural, engineering, and professional services expenses directly related to the projects;
- (D) Machinery that is a part of buildings and structures at the time of initial acquisition or construction;
- (E) Acquisition, development, and deployment of new computer systems, including the redevelopment or integration of existing and new computer systems, but excluding regular or ongoing maintenance or support agreements;
- (F) Equipment that meets all the following criteria:
 - (1) The equipment is essential in bringing the facility up to its intended use.
 - (2) The unit cost of the equipment, and not the individual parts of a unit,

is approximately \$100 or more.

(3) The equipment has a useful life of five years or more.

(4) The equipment is necessary for the functioning of the particular facility or project.

No equipment shall be paid for from these appropriations that is not an integral part of or directly related to the basic purpose or function of a facility or project for which moneys are appropriated. This does not apply to line items for equipment.

SECTION 23.03. CONTINGENCY RESERVE REQUIREMENT

Any request for release of capital appropriations by the Director of Budget and Management or the Controlling Board of capital appropriations for projects, the contracts for which are awarded by the Department of Administrative Services, shall contain a contingency reserve, the amount of which shall be determined by the Department of Administrative Services, for payment of unanticipated project expenses. Any amount deducted from the encumbrance for a contractor's contract as an assessment for liquidated damages shall be added to the encumbrance for the contingency reserve. Contingency reserve funds shall be used to pay costs resulting from unanticipated job conditions, to comply with rulings regarding building and other codes, to pay costs related to errors or omissions in contract documents, to pay costs associated with changes in the scope of work, and to pay the cost of settlements and judgments related to the project.

Any funds remaining upon completion of a project may, upon approval of the Controlling Board, be released for the use of the institution to which the appropriation was made for other capital facilities projects.

SECTION 23.04. AGENCY ADMINISTRATION OF CAPITAL FACILITIES PROJECTS

Notwithstanding sections 123.01 and 123.15 of the Revised Code, the Director of Administrative Services may authorize the Departments of Mental Health, Mental Retardation and Developmental Disabilities, Alcohol and Drug Addiction Services, Agriculture, Job and Family Services, Rehabilitation and Correction, Youth Services, Public Safety and Transportation, the Ohio Veterans' Home, and the Rehabilitation Services Commission to administer any capital facilities projects the estimated cost of which, including design fees, construction, equipment, and contingency amounts, is less than \$1,500,000. Requests for authorization to administer capital facilities projects shall be made in writing to the Director of

Administrative Services by the applicable state agency within sixty days after the effective date of the act in which the General Assembly initially makes an appropriation for the project. Upon the release of funds for such projects by the Controlling Board or the Director of Budget and Management, the agency may administer the capital project or projects for which agency administration has been authorized without the supervision, control, or approval of the Director of Administrative Services.

The state agency authorized by the Director of Administrative Services to administer capital facilities projects pursuant to this section shall comply with the applicable procedures and guidelines established in Chapter 153. of the Revised Code.

SECTION 23.05. SATISFACTION OF JUDGMENTS AND SETTLEMENTS AGAINST THE STATE

Except as otherwise provided in this section, an appropriation in this act or any other act may be used for the purpose of satisfying judgments, settlements, or administrative awards ordered or approved by the Court of Claims or by any other court of competent jurisdiction in connection with civil actions against the state. This authorization does not apply to appropriations to be applied to or used for payment of guarantees by or on behalf of the state, or for payments under lease agreements relating to or debt service on bonds, notes, or other obligations of the state. Notwithstanding any other section of law to the contrary, this authorization includes appropriations from funds into which proceeds or direct obligations of the state are deposited only to the extent that the judgment, settlement, or administrative award is for or represents capital costs for which the appropriation may otherwise be used and is consistent with the purpose for which any related obligations were issued or entered into. Nothing contained in this section is intended to subject the state to suit in any forum in which it is not otherwise subject to suit, and it is not intended to waive or compromise any defense or right available to the state in any suit against it.

SECTION 23.06. CAPITAL RELEASES BY THE DIRECTOR OF BUDGET AND MANAGEMENT

Notwithstanding section 126.14 of the Revised Code, appropriations for appropriation items CAP-002, Local Jails, and CAP-003, Community-Based Correctional Facilities, appropriated from the Adult Correctional Building Fund (Fund 027) to the Department of Rehabilitation and Correction shall be released upon the written approval of the Director of Budget and

Management. The appropriations from the Public School Building Fund (Fund 021) and the School Building Program Assistance Fund (Fund 032) to the School Facilities Commission, from the Transportation Building Fund (Fund 029) to the Department of Transportation, from the Clean Ohio Conservation Fund (Fund 056), the State Capital Improvement Fund (Fund 038), and the State Capital Improvements Revolving Loan Fund (Fund 040) to the Public Works Commission, shall be released upon presentation of a request to release the funds, by the agency to which the appropriation has been made, to the Director of Budget and Management.

SECTION 23.07. PREVAILING WAGE REQUIREMENT

Except as provided in section 4115.04 of the Revised Code, no moneys appropriated or reappropriated by the 124th General Assembly shall be used for the construction of public improvements, as defined in section 4115.03 of the Revised Code, unless the mechanics, laborers, or workers engaged therein are paid the prevailing rate of wages as prescribed in section 4115.04 of the Revised Code. Nothing in this section shall affect the wages and salaries established for state employees under the provisions of Chapter 124. of the Revised Code, or collective bargaining agreements entered into by the state pursuant to Chapter 4117. of the Revised Code, while engaged on force account work, nor shall this section interfere with the use of inmate and patient labor by the state.

SECTION 23.08. CAPITAL FACILITIES LEASES

Capital facilities for which appropriations are made from the Sports Facilities Building Fund (Fund 024), Administrative Building Fund (Fund 026), the Adult Correctional Building Fund (Fund 027), the Juvenile Correctional Building Fund (Fund 028), and the Arts Facilities Building Fund (Fund 030) may be leased by the Ohio Building Authority to the Departments of Youth Services, Administrative Services, Rehabilitation and Correction, or the Arts and Sports Facilities Commission. Other agreements may be made by the Ohio Building Authority and those departments with respect to the use or purchase of such capital facilities. Subject to the approval of the director of the department or the commission, the Ohio Building Authority may lease such capital facilities to, and make other agreements with respect to their use or purchase with, any governmental agency or nonprofit corporation having authority under law to own, lease, or operate such capital facilities. The department or the commission may sublease such capital facilities to, and make other agreements with respect to

their use or purchase with, any such governmental agency or nonprofit corporation, which may include provisions for transmittal of receipts of that agency or nonprofit corporation of any charges for the use of such facilities, all upon such terms and conditions as the parties may agree upon and any other provision of law affecting the leasing, acquisition, or disposition of capital facilities by such parties.

SECTION 23.09. APPROVAL OF EXPENDITURES BY THE DIRECTOR OF BUDGET AND MANAGEMENT

The Director of Budget and Management shall review the initial release of moneys for projects from the funds into which proceeds of direct obligations of the state are deposited, and authorize the expenditure or encumbrance of moneys from those funds only after determining to the director's satisfaction that either of the following apply:

(A) The application of such moneys to the particular project will not negatively affect any exemption or exclusion from federal income tax of the interest or interest equivalent on obligations, issued to provide moneys to the particular fund.

(B) Moneys for the project will come from the proceeds of obligations, the interest on which is not so excluded or exempt and which have been authorized as "taxable obligations" by the issuing authority.

The director shall report any nonrelease of moneys pursuant to this section to the Governor, the presiding officer of each house of the General Assembly, and the agency for the use of which the project is intended.

SECTION 23.10. SCHOOL FACILITIES ENCUMBRANCES AND REAPPROPRIATION

At the request of the Executive Director of the Ohio School Facilities Commission, the Director of Budget and Management may cancel encumbrances for school district projects from a previous biennium if the district has not raised its local share of project costs within one year of receiving Controlling Board approval in accordance with section 3318.05 of the Revised Code. The Executive Director of the Ohio School Facilities Commission shall certify the amounts of these canceled encumbrances to the Director of Budget and Management on a quarterly basis. The amounts of the canceled encumbrances are hereby appropriated.

SECTION 23.11. CERTIFICATE OF NEED REQUIREMENT

No appropriation for a health care facility authorized under this act may be released until the requirements of sections 3702.51 to 3702.68 of the Revised Code have been met.

SECTION 23.12. DISTRIBUTION OF PROCEEDS FROM ASBESTOS ABATEMENT LITIGATION

All proceeds received by the state as a result of litigation, judgments, settlements, or claims, filed by or on behalf of any state agency as defined by section 1.60 of the Revised Code or state-supported or state-assisted institution of higher education, for damages or costs resulting from the use, removal, or hazard abatement of asbestos materials shall be deposited in the Asbestos Abatement Distribution Fund (Fund 674). All funds deposited into the Asbestos Abatement Distribution Fund are hereby appropriated to the Attorney General. To the extent practicable, the proceeds placed in the Asbestos Abatement Distribution Fund shall be divided among the state agencies and state-supported or state-assisted institutions of higher education in accordance with the general provisions of the litigation regarding the percentage of recovery. Distribution of the proceeds to each state agency or state-supported or state-assisted institution of higher education shall be made in accordance with the Asbestos Abatement Distribution Plan to be developed by the Attorney General, the General Services Division within the Department of Administrative Services, and the Office of Budget and Management.

In those circumstances where asbestos litigation proceeds are for reimbursement of expenditures made with funds outside the state treasury or damages to buildings not constructed with state appropriations, direct payments shall be made to the affected institutions of higher education. Any proceeds received for reimbursement of expenditures made with funds within the state treasury or damages to buildings occupied by state agencies shall be distributed to the affected agencies with an intrastate transfer voucher to the funds identified in the Asbestos Abatement Distribution Plan.

Such proceeds shall be used for additional asbestos abatement or encapsulation projects, or for other capital improvements, except that proceeds distributed to the General Revenue Fund and other funds that are not bond improvement funds may be used for any purpose. The Controlling Board may, for bond improvement funds, create appropriation items or increase appropriation authority in existing appropriation items equaling the amount of such proceeds. Such amounts approved by the Controlling Board are hereby appropriated. Such proceeds deposited in bond improvement funds shall not be expended until released by the Controlling Board, which

shall require certification by the Director of Budget and Management that such proceeds are sufficient and available to fund the additional anticipated expenditures.

SECTION 24.01. OBLIGATIONS ISSUED UNDER ORC CHAPTER 151.

The capital improvements for which appropriations are made in this act from the Ohio Parks and Natural Resources Fund (Fund 031), the School Building Program Assistance Fund (Fund 032), the Higher Education Improvement Fund (Fund 034), the Clean Ohio Conservation Fund (Fund 056), the Clean Ohio Agricultural Easement Fund (Fund 057), and the Clean Ohio Trail Fund (Fund 061) are determined to be capital improvements and capital facilities for natural resources, a statewide system of common schools, state-supported and state-assisted institutions of higher education, and conservation purposes (under the Clean Ohio program) and are designated as capital facilities to which proceeds of obligations issued under Chapter 151. of the Revised Code are to be applied.

SECTION 24.02. OBLIGATIONS ISSUED UNDER ORC CHAPTER 152.

The capital improvements for which appropriations are made in this act from the Sports Facilities Building Fund (Fund 024), the Highway Safety Building Fund (Fund 025), the Administrative Building Fund (Fund 026), the Adult Correctional Building Fund (Fund 027), the Juvenile Correctional Building Fund (Fund 028), the Transportation Building Fund (Fund 029), and the Arts Facilities Building Fund (Fund 030) are determined to be capital improvements and capital facilities for housing state agencies and branches of state government and their functions and are designated as capital facilities to which proceeds of obligations issued under Chapter 152. of the Revised Code are to be applied.

The owners or holders of obligations issued under Chapter 152. of the Revised Code have no right to have excises or taxes levied by the General Assembly for the payment of interest or principal thereon.

SECTION 24.03. OBLIGATIONS ISSUED UNDER ORC CHAPTER 154.

The capital improvements for which appropriations are made in this act from the Mental Health Facilities Improvement Fund (Fund 033) and the

Parks and Recreation Improvement Fund (Fund 035) are determined to be capital improvements and capital facilities for mental hygiene and retardation and parks and recreation and are designated as capital facilities to which proceeds of obligations issued under Chapter 154. of the Revised Code are to be applied.

The owners or holders of obligations issued under Chapter 154. of the Revised Code have no right to have excises or taxes levied by the General Assembly for the payment of principal or interest thereon.

SECTION 25.01. TRANSFER OF OPEN ENCUMBRANCES

Upon the request of the agency to which a capital project appropriation item is appropriated, the Director of Budget and Management may transfer open encumbrance amounts between separate encumbrances for the project appropriation item to the extent that any reductions in encumbrances are agreed to by the contracting vendor and the agency.

SECTION 26.01. LITIGATION PROCEEDS TO THE ADMINISTRATIVE BUILDING FUND

Any proceeds received by the State of Ohio as the result of litigation or a settlement agreement related to any liability for the planning, design, engineering, construction, or construction management of such facilities operated by the Department of Administrative Services shall be deposited into the Administrative Building Fund (Fund 026).

SECTION 27.01. COAL RESEARCH AND DEVELOPMENT BONDS

The Ohio Public Facilities Commission, upon the request of the Director of the Ohio Coal Development Office with the advice of the Technical Advisory Committee created in section 1551.35 of the Revised Code and the approval of the Director of Development, is hereby authorized to issue and sell, in accordance with Section 15 of Article VIII, Ohio Constitution, and Chapter 151., and particularly sections 151.01 and 151.07 and other applicable sections of the Revised Code, bonds or other obligations of the State of Ohio heretofore authorized by prior acts of the General Assembly. The obligations shall be issued, subject to applicable constitutional and statutory limitations, to provide sufficient moneys to the credit of the Coal Research and Development Fund created in section 1555.15 of the Revised Code to pay costs charged to such fund when due as estimated by the Director of the Ohio Coal Development Office.

SECTION 28.01. OHIO ADMINISTRATIVE KNOWLEDGE SYSTEM PROJECT

The Ohio administrative knowledge system (OAKS) will be an enterprise resource planning system that will replace the state's central services infrastructure systems, including the central accounting system, the human resources/payroll system, the capital improvements projects tracking system, the fixed assets management system, and the procurement system. The Department of Administrative Services, in conjunction with the Office of Budget and Management, may acquire the system, including, but not limited to, the enterprise resource planning software and installation and implementation thereof pursuant to Chapter 125. of the Revised Code. Any lease-purchase arrangement utilized under Chapter 125. of the Revised Code shall provide at the end of the lease period that OAKS shall become the property of the state without cost.

SECTION 29.01. Sections 2.01 to 27.01 of this act shall remain in full force and effect commencing on July 1, 2002, and terminating on June 30, 2004, for the purpose of drawing money from the state treasury in payment of liabilities lawfully incurred hereunder, and on June 30, 2004, and not before, the moneys hereby appropriated shall lapse into the funds from which they are severally appropriated. Because if, under Ohio Constitution, Article II, Section 1c, Sections 2.01 to 27.01 of this act do not take effect until after July 1, 2002, Sections 2.01 to 27.01 of this act shall be and remain in full force and effect commencing on that later effective date.

SECTION 30.01. That Section 9 of Am. Sub. S.B. 242 of the 124th General Assembly be amended to read as follows:

Sec. 9. BOR BOARD OF REGENTS

Tobacco Master Settlement Agreement Fund Group			
M87 235-405	Biomedical Research and Technology Transfer Commission	\$ 25,500,000	\$ <u>25,500,000</u>
			<u>0</u>
TOTAL TSF Tobacco Master Settlement Agreement Fund Group		\$ 25,500,000	\$ <u>25,500,000</u>
			<u>0</u>
TOTAL ALL BUDGET FUND GROUPS		\$ 25,500,000	\$ <u>25,500,000</u>
			<u>0</u>

SECTION 30.02. That existing Section 9 of Am. Sub. S.B. 242 of the 124th General Assembly is hereby repealed.

SECTION 30.03. All items in this section are hereby appropriated as designated out of any moneys in the state treasury to the credit of the designated fund. For all appropriations made in this act, those in the first column are for fiscal year 2003 and those in the second column are for fiscal year 2004.

		Appropriations
DEV DEPARTMENT OF DEVELOPMENT		
Tobacco Master Settlement Agreement Fund Group		
M87 195-435	Biomedical Research and Technology Transfer Trust Fund	\$ 0 \$ 25,500,000
TOTAL TSF Tobacco Master Settlement Agreement Fund Group	\$	0 \$ 25,500,000
TOTAL ALL BUDGET FUND GROUPS	\$	0 \$ 25,500,000

BIOMEDICAL RESEARCH AND TECHNOLOGY TRANSFER TRUST FUND

On July 1, 2003, or the earliest date thereafter permitted by law, the Biomedical Research and Technology Transfer Trust Fund (Fund M87) shall be transferred from the Board of Regents to the Department of Development. At the request of the Board of Regents, the Director of Budget and Management may cancel encumbrances in the fund from Board of Regents appropriation item 235-405, Biomedical Research and Technology Transfer Commission, and reestablish such encumbrances or parts of encumbrances in fiscal year 2004 for the same purpose and to the same vendor in Department of Development appropriation item 195-435, Biomedical Research and Technology Transfer Trust Fund. The Director of Budget and Management shall reduce the appropriation balances in fiscal year 2003 by the amount of the encumbrances canceled in the Fund. As determined by the Director of Budget and Management, the appropriation authority necessary to reestablish such encumbrances or parts of encumbrances in fiscal year 2004 for the Department of Development is hereby appropriated.

The foregoing appropriation item 195-435, Biomedical Research and Technology Transfer Trust Fund, shall be used by the Department of Development to support the duties and responsibilities of the Third Frontier Commission that are related to biomedical research and technology as required under sections 184.01 and 184.02 of the Revised Code and in

harmony with the intention of the General Assembly for the use of tobacco master settlement payments for biomedical research and technology.

SECTION 30.04. On July 1, 2003, the Biomedical Research and Technology Transfer Commission is abolished and all of its functions are transferred to the Third Frontier Commission. The Third Frontier Commission is thereupon and thereafter successor to, assumes the obligations of, and otherwise constitutes the continuation of the Biomedical Research and Technology Transfer Commission.

Any business commenced but not completed by the Biomedical Research and Technology Transfer Commission on July 1, 2003, shall be completed by the Third Frontier Commission in the same manner, and with the same effect, as if completed by the Biomedical Research and Technology Transfer Commission. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer of functions required by this section but shall be administered by the Third Frontier Commission. All of the Biomedical Research and Technology Transfer Commission's rules, orders, and determinations continue in effect as rules, orders, and determinations of the Third Frontier Commission until modified or rescinded by the Third Frontier Commission. If necessary to ensure the integrity of the numbering of the Administrative Code, the Director of the Legislative Service Commission shall renumber the Biomedical Research and Technology Transfer Commission's rules as appropriate to reflect their transfer to the Third Frontier Commission.

All employees of the Biomedical Research and Technology Transfer Commission are transferred to the Third Frontier Commission.

Wherever the Biomedical Research and Technology Transfer Commission is referred to in any law, contract, or other document relating to the transferred functions, the reference shall be deemed to refer to the Third Frontier Commission.

No action or proceeding pending on July 1, 2003, is affected by the transfer. Such actions and proceedings shall be prosecuted or defended in the name of the Third Frontier Commission. The Third Frontier Commission shall be substituted as a party upon application to the court or other appropriate tribunal.

SECTION 30.05. Sections 30.01 to 30.05 of this act are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the sections go into immediate effect

when this act becomes law.

SECTION 31.01. Section 25 of Am. Sub. S.B. 261 of the 124th General Assembly is hereby repealed.

SECTION 32.01. Notwithstanding the requirement under division (B) of section 5709.40 of the Revised Code for an ordinance to designate specific public improvements made, to be made, or in the process of being made by the municipal corporation that directly benefit one or more parcels identified in the ordinance, not later than June 30, 2003, the legislative authority of an impacted city, as defined in section 1728.01 of the Revised Code, may include a determination in an ordinance adopted under section 5709.40 of the Revised Code that satisfactory provision has been made for the public improvement needs of the parcels identified in the ordinance and may specify other public improvements made, to be made, or in the process of being made in the city that do not directly benefit the parcel identified in the ordinance but are in support of urban redevelopment within the meaning of section 5709.41 of the Revised Code.

SECTION 32.02. Section 32.01 of this act is hereby repealed on July 1, 2003.

SECTION 33.01. (A) The Governor is hereby authorized to execute a deed in the name of the state conveying to a purchaser and the purchaser's successors and assigns or heirs and assigns, all of the state's right, title, and interest in the following described real estate:

Situated in the City of Cincinnati, County of Hamilton, and State of Ohio, to-wit:

Beginning at the Southeast corner of Lafayette Avenue and Middleton Avenue, Clifton and running thence Southwardly along the East line of Middleton Avenue, Two Hundred and Sixty-eight and Fifty-three hundredths (268.53) feet to a point in said East line of Middleton Avenue; thence Eastwardly at right angles to Middleton Avenue Two Hundred and One and Ninety-seven Hundredths (201.97) feet to a point in the East line of the property conveyed to Thomas Sherlock, Sr. by Horace B. Chaflin and wife by deed duly recorded in Deed Book No. 417, Page 192; thence Northwardly along the East line of said property conveyed by said Horace B. Chaflin and wife to Thomas Sherlock, Sr. Three Hundred and Fifty-two

and Thirty Hundredths (352.30) feet to the South line of Lafayette Avenue, said point being the Northeast corner of said property conveyed by Horace B. Chaflin and wife to Thomas Sherlock, Sr.; thence Westwardly Two Hundred and Seventeen and Forty-seven Hundredths (217.47) feet along the South line of Lafayette Avenue to the place of beginning, said premises being a part of Lot No. Five (5) on the plat of Subdivision of the Clifton Farm, made by the Lafayette Bank of Cincinnati.

(B) The Board of Trustees of the University of Cincinnati shall have the real estate described in division (A) of this section appraised by two disinterested persons.

(C) Consideration for the real estate described in division (A) of this section shall be a purchase price acceptable to the Board of Trustees of the University of Cincinnati.

(D) The purchaser shall pay the costs of the conveyance of the real estate described in division (A) of this section.

(E) Upon the purchaser's payment of the purchase price for the real estate described in division (A) of this section and the request of the Board of Trustees of the University of Cincinnati, the Auditor of State, with the assistance of the Attorney General, shall prepare a deed to the real estate. The deed shall state the consideration. 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 purchaser. The purchaser shall present the deed for recording in the Office of the Hamilton County Recorder.

(F) The net proceeds of the sale of the real estate described in division (A) of this section shall be deposited in the University of Cincinnati Endowment Fund (William Gray Endowment Fund).

(G) This section expires one year after its effective date.

SECTION 33.02. (A) The Governor is hereby authorized to execute a deed in the name of the state conveying to the East Liverpool Young Men's Christian Association and its successors and assigns all of the state's right, title, and interest in the following described real estate:

Situated in the City of East Liverpool, County of Columbiana and State of Ohio and known as being 75% of permanent parcel number 3750128.

Being .86 acres, more or less, but subject to all legal highways.

(B) Consideration for the conveyance of the real estate described in division (A) of this section is the conveyance from the East Liverpool Young Men's Christian Association to the state and its successors and

ssigns of the following described real estate or other real estate that is of similar value and size, is contiguous to the East Liverpool campus of the Kent State University, and is acceptable to the Kent State University:

Situated in the City of East Liverpool, County of Columbiana and State of Ohio and known as being permanent parcel numbers 3750196, 3706020, and 3709497.

Being .86 acres, more or less, but subject to all legal highways.

(C) The state shall pay the costs of the conveyances described in divisions (A) and (B) of this section.

(D) The real estate described or referred to in division (B) of this section that is conveyed to the state shall be for the use and benefit of the Kent State University.

(E) Upon the conveyance to the state of the real estate described or referred to in division (B) of this section, the Auditor of State, with the assistance of the Attorney General, shall prepare a deed to the real estate described in division (A) of this section. The deed shall state the consideration. 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 East Liverpool Young Men's Christian Association. The East Liverpool Young Men's Christian Association shall present the deed for recording in the Office of the Columbiana County Recorder.

(E) This section expires one year after its effective date.

SECTION 33.03. (A) The payment schedule set forth in division (B) of Section 9 of Am. Sub. S.B. 164 of the 124th General Assembly, for conveyance of the real estate described in division (A) of that section, shall be modified in accordance with this section.

Whereas payments totaling \$195,000 have been made by the Hamilton County Alcohol and Drug Addiction Services Board (the "grantee") as of June 30, 2002, the amount remaining to be paid, \$405,000, shall be paid by the grantee as follows:

STATE FISCAL YEAR OF PAYMENT	PAYMENT AMOUNT
FY 2003	\$40,500
FY 2004	\$40,500
FY 2005	\$40,500
FY 2006	\$40,500
FY 2007	\$40,500
FY 2008	\$40,500

FY 2009	\$40,500
FY 2010	\$40,500
FY 2011	\$40,500
FY 2012	\$40,500

(B) The Offer to Purchase executed by the state and the grantee with respect to the real estate shall be amended to reflect the payment schedule set forth in division (A) of this section.

SECTION 34.01. (A)(1) Except as otherwise provided in division (A)(2) of this section, the amendment or enactment by this act of sections 5733.401, 5747.01, 5747.011, 5747.012, 5747.02, or 5747.231 of the Revised Code apply to taxable years ending on or after the effective date of this section.

(2) For taxable years beginning in 2002 and ending before the effective date of this section, each trust shall be rebuttably presumed to have made an election to apply such amendments or enactments to the trust's taxable year beginning in 2002. Each trust can rebut this presumption by notifying the Tax Commissioner in writing, before June 1, 2003, that the trust is not making the presumed election. A trust so notifying the Tax Commissioner may not thereafter make an election to apply such amendments and enactments in this act to the trust's taxable year beginning in 2002. The presumed election becomes an irrevocable election for each trust that, before June 1, 2003, does not notify the tax commissioner in writing that the trust is not making the presumed election.

(B) This section is not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, this section goes into immediate effect when this act becomes law.

SECTION 35.01. Sections 1711.11, 1711.53, 2113.031, 4117.01, 4117.14, 5731.21, 5733.021, 5733.26, 5733.40, 5733.401, 5747.01, and 5747.02 of the Revised Code, as amended by this act; section 5747.231 of the Revised Code, as repealed and reenacted by this act; and sections 5747.011 and 5747.012 of the Revised Code, as enacted by this act, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, sections 1711.11, 1711.53, 2113.031, 4117.01, 4117.14, 5731.21, 5733.021, 5733.26, 5733.40, 5733.401, 5747.01, and 5747.02 of the Revised Code, as amended by this act; section 5747.231 of the Revised Code, as repealed and reenacted by this act; and sections 5747.011 and 5747.012 of the Revised Code, as enacted by this act, go into

immediate effect when this act becomes law.

SECTION 35.02. Sections 102.02, 183.021, 183.19, 183.30, 184.01, 184.02, and 184.03 of the Revised Code, as amended or enacted by this act, shall take effect July 1, 2003.

SECTION 35.03. Section 5739.031 of the Revised Code takes effect July 1, 2003.

SECTION 36.01. Section 109.71 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 163 and Am. S.B. 137 of the 123rd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 36.02. Section 109.77 of the Revised Code is presented in this act as a composite of the section as amended by Sub. H.B. 148, Am. Sub. H.B. 163, and Am. S.B. 137 of the 123rd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 36.03. Section 151.01 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 385 and Am. Sub. H.B. 524 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 36.04. Section 2935.01 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 427 and Sub. S.B. 200 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 36.05. Section 4117.01 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 130 and Am. Sub. S.B. 229 of the 122nd the General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 36.06. Section 5739.026 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 143 and Sub. S.B. 200 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 36.07. Section 5739.033 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 143 and Sub. S.B. 200 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 36.08. Section 5902.02 of the Revised Code is presented in this act as a composite of the section as amended by both H.B. 471 and Am. Sub. S.B. 120 of the 123rd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 37.01. 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.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

H. B. No. 675

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

Director, Legislative Service Commission.

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

Secretary of State.

File No. _____ Effective Date _____