

AN ACT

To amend sections 3121.01, 3121.07, 4141.01, 4141.06, 4141.162, 4141.20, 4141.24, 4141.26, 4141.281, 4141.301, 4141.35, and 4503.03; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 4141.281 (4141.283), 4141.282 (4141.284), and 4141.283 (4141.285); to enact new sections 4141.28, 4141.281, and 4141.282; and to repeal section 4141.28 of the Revised Code to modify procedures for applying for determination of unemployment compensation benefits and claims for those benefits, to modify the procedures for appealing decisions relative to unemployment compensation benefits, to require that the information currently submitted by employers in two separate quarterly reports be merged into one report, and to correspondingly modify the threshold parameters for forfeiture penalties for late and improper filing of quarterly reports.

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

SECTION 1. That sections 3121.01, 3121.07, 4141.01, 4141.06, 4141.162, 4141.20, 4141.24, 4141.26, 4141.281, 4141.301, 4141.35, and 4503.03 be amended; sections 4141.281 (4141.283), 4141.282 (4141.284), and 4141.283 (4141.285) be amended for the purpose of adopting new section numbers as indicated in parentheses; and new sections 4141.28, 4141.281, and 4141.282 of the Revised Code be enacted to read as follows:

Sec. 3121.01. As used in this chapter:

(A) "Court child support order," "court support order," and "personal earnings" have the same meanings as in section 3119.01 of the Revised Code.

(B) "Default" means any failure to pay under a support order that is an

amount greater than or equal to the amount of support payable under the support order for one month.

(C) "Financial institution" means a bank, savings and loan association, or credit union, or a regulated investment company or mutual fund.

(D) "Income" means any form of monetary payment, including personal earnings; workers' compensation payments; unemployment compensation benefits to the extent permitted by, and in accordance with, sections 3121.07 and ~~4141.282~~ 4141.284 of the Revised Code, and federal law governing the department of job and family services; pensions; annuities; allowances; private or governmental retirement benefits; disability or sick pay; insurance proceeds; lottery prize awards; federal, state, or local government benefits to the extent that the benefits can be withheld or deducted under the law governing the benefits; any form of trust fund or endowment; lump sum payments; and any other payment in money.

(E) "Payor" means any person or entity that pays or distributes income to an obligor, including an obligor if the obligor is self-employed; an employer; an employer paying an obligor's workers' compensation benefits; the public employees retirement board; the governing entity of a municipal retirement system; the board of trustees of the Ohio police and fire pension fund; the state teachers retirement board; the school employees retirement board; the state highway patrol retirement board; a provider, as defined in section 3305.01 of the Revised Code; the bureau of workers' compensation; or any other person or entity other than the department of job and family services with respect to unemployment compensation benefits paid pursuant to Chapter 4141. of the Revised Code.

Sec. 3121.07. (A) If a child support enforcement agency discovers pursuant to an investigation conducted under section 3123.02 of the Revised Code that an obligor under a child support order that it is administering may be receiving unemployment compensation benefits or if a child support enforcement agency receives notice or otherwise discovers that an obligor under a child support order may be receiving unemployment compensation benefits, the agency promptly shall conduct an investigation to determine whether the obligor is receiving unemployment compensation benefits and to determine the amount of the benefits. The investigation shall be completed within ten days of the agency's discovery or receipt of the notice.

(B)(1) Upon completion of an investigation conducted under division (A) of this section, if the agency finds that the obligor is receiving unemployment compensation benefits, it shall, in accordance with Chapter 3121. of the Revised Code and section ~~4141.282~~ 4141.284 of the Revised Code and federal law governing the department of job and family services,

notify the department of job and family services to withhold or deduct an amount from the unemployment compensation benefits to pay child support obligations. Any deduction from a source in accordance with this section and section ~~4141.282~~ 4141.284 of the Revised Code is in addition to, and does not preclude, any withholding or deduction for purposes of child support under Chapters 3119., 3121., and 3123. of the Revised Code.

The agency may not impose the processing charge pursuant to section 3119.27 of the Revised Code with respect to amounts withheld or deducted from unemployment compensation pursuant to this section.

(2)(a) The department of job and family services, in accordance with section ~~4141.282~~ 4141.284 of the Revised Code, shall deduct and withhold from unemployment compensation payable to the obligor, and pay to the appropriate child support enforcement entity, whichever of the following is applicable:

(i) Any amount required to be deducted and withheld from the unemployment compensation pursuant to legal process, as that term is defined in Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C. 651 et seq., as amended, and properly served on the ~~administrator~~ director of job and family services, as described in section 4141.282 of the Revised Code;

(ii) When division (B)(2)(a)(i) of this section is inapplicable, an amount determined pursuant to an agreement submitted to the ~~administrator~~ director under Title IV-D of the "Social Security Act," 88 Stat. 2351, 42 U.S.C. 651 et seq., as amended, by the state or local child support enforcement agency;

(iii) If neither division (B)(2)(a)(i) nor (ii) of this section is applicable, then the amount specified by the individual.

(b) The amount of unemployment compensation subject to being withheld pursuant to division (B)(2)(a) of this section is that amount that remains payable to the individual after application of any recoupment provisions for recovery of overpayments and after deductions that have been made under Chapter 4141. of the Revised Code for deductible income received by the individual. Effective for applications to establish unemployment compensation benefit rights filed after December 27, 1997, the amount withheld with respect to a week of unemployment benefits shall not exceed fifty per cent of the individual's weekly benefit amount as determined by the ~~administrator of the bureau of employment services~~ director.

(c) Any deduction and withholding pursuant to division (B) of this section from unemployment compensation payable to an obligor is subject to, and shall be in accordance with, section ~~4141.282~~ 4141.284 of the

d Code.

(C) The director ~~of job and family services~~ shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section, which rules shall be consistent with section ~~4141.282~~ 4141.284 of the Revised Code and federal law governing the department.

Sec. 4141.01. As used in this chapter, unless the context otherwise requires:

(A)(1) "Employer" means the state, its instrumentalities, its political subdivisions and their instrumentalities, and any individual or type of organization including any partnership, limited liability company, association, trust, estate, joint-stock company, insurance company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or the successor thereof, or the legal representative of a deceased person who subsequent to December 31, 1971, or in the case of political subdivisions or their instrumentalities, subsequent to December 31, 1973:

(a) Had in employment at least one individual, or in the case of a nonprofit organization, subsequent to December 31, 1973, had not less than four individuals in employment for some portion of a day in each of twenty different calendar weeks, in either the current or the preceding calendar year whether or not the same individual was in employment in each such day; or

(b) Except for a nonprofit organization, had paid for service in employment wages of fifteen hundred dollars or more in any calendar quarter in either the current or preceding calendar year; or

(c) Had paid, subsequent to December 31, 1977, for employment in domestic service in a local college club, or local chapter of a college fraternity or sorority, cash remuneration of one thousand dollars or more in any calendar quarter in the current calendar year or the preceding calendar year, or had paid subsequent to December 31, 1977, for employment in domestic service in a private home cash remuneration of one thousand dollars in any calendar quarter in the current calendar year or the preceding calendar year:

(i) For the purposes of divisions (A)(1)(a) and (b) of this section, there shall not be taken into account any wages paid to, or employment of, an individual performing domestic service as described in this division.

(ii) An employer under this division shall not be an employer with respect to wages paid for any services other than domestic service unless the employer is also found to be an employer under division (A)(1)(a), (b), or (d) of this section.

(d) As a farm operator or a crew leader subsequent to December 31,

1977, had in employment individuals in agricultural labor; and

(i) During any calendar quarter in the current calendar year or the preceding calendar year, paid cash remuneration of twenty thousand dollars or more for the agricultural labor; or

(ii) Had at least ten individuals in employment in agricultural labor, not including agricultural workers who are aliens admitted to the United States to perform agricultural labor pursuant to sections 214(e) and 101(a)(15)(H) of the "Immigration and Nationality Act," 66 Stat. 163, 8 U.S.C.A. 1101(a)(15)(H)(ii)(a), for some portion of a day in each of the twenty different calendar weeks, in either the current or preceding calendar year whether or not the same individual was in employment in each day; or

(e) Is not otherwise an employer as defined under division (A)(1)(a) or (b) of this section; and

(i) For which, within either the current or preceding calendar year, service, except for domestic service in a private home not covered under division (A)(1)(c) of this section, is or was performed with respect to which such employer is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment fund;

(ii) Which, as a condition for approval of this chapter for full tax credit against the tax imposed by the "Federal Unemployment Tax Act," 84 Stat. 713, 26 U.S.C.A. 3301 to 3311, is required, pursuant to such act to be an employer under this chapter; or

(iii) Who became an employer by election under division (A)(4) or (5) of this section and for the duration of such election; or

(f) In the case of the state, its instrumentalities, its political subdivisions, and their instrumentalities, had in employment, as defined in division (B)(2)(a) of this section, at least one individual;

(g) For the purposes of division (A)(1)(a) of this section, if any week includes both the thirty-first day of December and the first day of January, the days of that week before the first day of January shall be considered one calendar week and the days beginning the first day of January another week.

(2) Each individual employed to perform or to assist in performing the work of any agent or employee of an employer is employed by such employer for all the purposes of this chapter, whether such individual was hired or paid directly by such employer or by such agent or employee, provided the employer had actual or constructive knowledge of the work. All individuals performing services for an employer of any person in this state who maintains two or more establishments within this state are employed by a single employer for the purposes of this chapter.

(3) An employer subject to this chapter within any calendar year is

subject to this chapter during the whole of such year and during the next succeeding calendar year.

(4) An employer not otherwise subject to this chapter who files with the director of job and family services a written election to become an employer subject to this chapter for not less than two calendar years shall, with the written approval of such election by the director, become an employer subject to this chapter to the same extent as all other employers as of the date stated in such approval, and shall cease to be subject to this chapter as of the first day of January of any calendar year subsequent to such two calendar years only if at least thirty days prior to such first day of January the employer has filed with the director a written notice to that effect.

(5) Any employer for whom services that do not constitute employment are performed may file with the director a written election that all such services performed by individuals in the employer's employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of this chapter, for not less than two calendar years. Upon written approval of the election by the director, such services shall be deemed to constitute employment subject to this chapter from and after the date stated in such approval. Such services shall cease to be employment subject to this chapter as of the first day of January of any calendar year subsequent to such two calendar years only if at least thirty days prior to such first day of January such employer has filed with the director a written notice to that effect.

(B)(1) "Employment" means service performed by an individual for remuneration under any contract of hire, written or oral, express or implied, including service performed in interstate commerce and service performed by an officer of a corporation, without regard to whether such service is executive, managerial, or manual in nature, and without regard to whether such officer is a stockholder or a member of the board of directors of the corporation, unless it is shown to the satisfaction of the director that such individual has been and will continue to be free from direction or control over the performance of such service, both under a contract of service and in fact. The director shall adopt rules to define "direction or control."

(2) "Employment" includes:

(a) Service performed after December 31, 1977, by an individual in the employ of the state or any of its instrumentalities, or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of any of the foregoing and one or more other states or political subdivisions and without regard to divisions (A)(1)(a) and (b) of this section, provided that such

ce is excluded from employment as defined in the "Federal Unemployment Tax Act," 53 Stat. 183, 26 U.S.C.A. 3301, 3306(c)(7) and is not excluded under division (B)(3) of this section; or the services of employees covered by voluntary election, as provided under divisions (A)(4) and (5) of this section;

(b) Service performed after December 31, 1971, by an individual in the employ of a religious, charitable, educational, or other organization which is excluded from the term "employment" as defined in the "Federal Unemployment Tax Act," 84 Stat. 713, 26 U.S.C.A. 3301 to 3311, solely by reason of section 26 U.S.C.A. 3306(c)(8) of that act and is not excluded under division (B)(3) of this section;

(c) Domestic service performed after December 31, 1977, for an employer, as provided in division (A)(1)(c) of this section;

(d) Agricultural labor performed after December 31, 1977, for a farm operator or a crew leader, as provided in division (A)(1)(d) of this section;

(e) Service not covered under division (B)(1) of this section which is performed after December 31, 1971:

(i) As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages other than milk, laundry, or dry-cleaning services, for the individual's employer or principal;

(ii) As a traveling or city salesperson, other than as an agent-driver or commission-driver, engaged on a full-time basis in the solicitation on behalf of and in the transmission to the salesperson's employer or principal except for sideline sales activities on behalf of some other person of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale, or supplies for use in their business operations, provided that for the purposes of this division (B)(2)(e)(ii) of this section, the services shall be deemed employment if the contract of service contemplates that substantially all of the services are to be performed personally by the individual and that the individual does not have a substantial investment in facilities used in connection with the performance of the services other than in facilities for transportation, and the services are not in the nature of a single transaction that is not a part of a continuing relationship with the person for whom the services are performed.

(f) An individual's entire service performed within or both within and without the state if:

(i) The service is localized in this state.

(ii) The service is not localized in any state, but some of the service is

performed in this state and either the base of operations, or if there is no base of operations then the place from which such service is directed or controlled, is in this state or the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in this state.

(g) Service not covered under division (B)(2)(f)(ii) of this section and performed entirely without this state, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state, the Virgin Islands, Canada, or of the United States, if the individual performing such service is a resident of this state and the director approves the election of the employer for whom such services are performed; or, if the individual is not a resident of this state but the place from which the service is directed or controlled is in this state, the entire services of such individual shall be deemed to be employment subject to this chapter, provided service is deemed to be localized within this state if the service is performed entirely within this state or if the service is performed both within and without this state but the service performed without this state is incidental to the individual's service within the state, for example, is temporary or transitory in nature or consists of isolated transactions;

(h) Service of an individual who is a citizen of the United States, performed outside the United States except in Canada after December 31, 1971, or the Virgin Islands, after December 31, 1971, and before the first day of January of the year following that in which the United States secretary of labor approves the Virgin Islands law for the first time, in the employ of an American employer, other than service which is "employment" under divisions (B)(2)(f) and (g) of this section or similar provisions of another state's law, if:

(i) The employer's principal place of business in the United States is located in this state;

(ii) The employer has no place of business in the United States, but the employer is an individual who is a resident of this state; or the employer is a corporation which is organized under the laws of this state, or the employer is a partnership or a trust and the number of partners or trustees who are residents of this state is greater than the number who are residents of any other state; or

(iii) None of the criteria of divisions (B)(2)(f)(i) and (ii) of this section is met but the employer has elected coverage in this state or the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under this chapter.

(i) For the purposes of division (B)(2)(h) of this section, the term

erican employer" means an employer who is an individual who is a resident of the United States; or a partnership, if two-thirds or more of the partners are residents of the United States; or a trust, if all of the trustees are residents of the United States; or a corporation organized under the laws of the United States or of any state, provided the term "United States" includes the states, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(j) Notwithstanding any other provisions of divisions (B)(1) and (2) of this section, service, except for domestic service in a private home not covered under division (A)(1)(c) of this section, with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund, or service, except for domestic service in a private home not covered under division (A)(1)(c) of this section, which, as a condition for full tax credit against the tax imposed by the "Federal Unemployment Tax Act," 84 Stat. 713, 26 U.S.C.A. 3301 to 3311, is required to be covered under this chapter.

(k) Construction services performed by any individual under a construction contract, as defined in section 4141.39 of the Revised Code, if the director determines that the employer for whom services are performed has the right to direct or control the performance of the services and that the individuals who perform the services receive remuneration for the services performed. The director shall presume that the employer for whom services are performed has the right to direct or control the performance of the services if ten or more of the following criteria apply:

(i) The employer directs or controls the manner or method by which instructions are given to the individual performing services;

(ii) The employer requires particular training for the individual performing services;

(iii) Services performed by the individual are integrated into the regular functioning of the employer;

(iv) The employer requires that services be provided by a particular individual;

(v) The employer hires, supervises, or pays the wages of the individual performing services;

(vi) A continuing relationship between the employer and the individual performing services exists which contemplates continuing or recurring work, even if not full-time work;

(vii) The employer requires the individual to perform services during established hours;

(viii) The employer requires that the individual performing services be devoted on a full-time basis to the business of the employer;

(ix) The employer requires the individual to perform services on the employer's premises;

(x) The employer requires the individual performing services to follow the order of work established by the employer;

(xi) The employer requires the individual performing services to make oral or written reports of progress;

(xii) The employer makes payment to the individual for services on a regular basis, such as hourly, weekly, or monthly;

(xiii) The employer pays expenses for the individual performing services;

(xiv) The employer furnishes the tools and materials for use by the individual to perform services;

(xv) The individual performing services has not invested in the facilities used to perform services;

(xvi) The individual performing services does not realize a profit or suffer a loss as a result of the performance of the services;

(xvii) The individual performing services is not performing services for more than two employers simultaneously;

(xviii) The individual performing services does not make the services available to the general public;

(xix) The employer has a right to discharge the individual performing services;

(xx) The individual performing services has the right to end the individual's relationship with the employer without incurring liability pursuant to an employment contract or agreement.

(3) "Employment" does not include the following services if they are found not subject to the "Federal Unemployment Tax Act," 84 Stat. 713 (1970), 26 U.S.C.A. 3301 to 3311, and if the services are not required to be included under division (B)(2)(j) of this section:

(a) Service performed after December 31, 1977, in agricultural labor, except as provided in division (A)(1)(d) of this section;

(b) Domestic service performed after December 31, 1977, in a private home, local college club, or local chapter of a college fraternity or sorority except as provided in division (A)(1)(c) of this section;

(c) Service performed after December 31, 1977, for this state or a political subdivision as described in division (B)(2)(a) of this section when performed:

(i) As a publicly elected official;

- (ii) As a member of a legislative body, or a member of the judiciary;
- (iii) As a military member of the Ohio national guard;
- (iv) As an employee, not in the classified service as defined in section 124.11 of the Revised Code, serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency;

- (v) In a position which, under or pursuant to law, is designated as a major nontenured policymaking or advisory position, not in the classified service of the state, or a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight hours per week.

- (d) In the employ of any governmental unit or instrumentality of the United States;

- (e) Service performed after December 31, 1971:

- (i) Service in the employ of an educational institution or institution of higher education, including those operated by the state or a political subdivision, if such service is performed by a student who is enrolled and is regularly attending classes at the educational institution or institution of higher education; or

- (ii) By an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at the institution, which combines academic instruction with work experience, if the service is an integral part of the program, and the institution has so certified to the employer, provided that this subdivision shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

- (f) Service performed by an individual in the employ of the individual's son, daughter, or spouse and service performed by a child under the age of eighteen in the employ of the child's father or mother;

- (g) Service performed for one or more principals by an individual who is compensated on a commission basis, who in the performance of the work is master of the individual's own time and efforts, and whose remuneration is wholly dependent on the amount of effort the individual chooses to expend, and which service is not subject to the "Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311. Service performed after December 31, 1971:

- (i) By an individual for an employer as an insurance agent or as an insurance solicitor, if all this service is performed for remuneration solely by way of commission;

(ii) As a home worker performing work, according to specifications furnished by the employer for whom the services are performed, on materials or goods furnished by such employer which are required to be returned to the employer or to a person designated for that purpose.

(h) Service performed after December 31, 1971:

(i) In the employ of a church or convention or association of churches, or in an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches;

(ii) By a duly ordained, commissioned, or licensed minister of a church in the exercise of the individual's ministry or by a member of a religious order in the exercise of duties required by such order; or

(iii) In a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work;

(i) Service performed after June 30, 1939, with respect to which unemployment compensation is payable under the "Railroad Unemployment Insurance Act," 52 Stat. 1094 (1938), 45 U.S.C. 351;

(j) Service performed by an individual in the employ of any organization exempt from income tax under section 501 of the "Internal Revenue Code of 1954," if the remuneration for such service does not exceed fifty dollars in any calendar quarter, or if such service is in connection with the collection of dues or premiums for a fraternal beneficial society, order, or association and is performed away from the home office or is ritualistic service in connection with any such society, order, or association;

(k) Casual labor not in the course of an employer's trade or business; incidental service performed by an officer, appraiser, or member of a finance committee of a bank, building and loan association, savings and loan association, or savings association when the remuneration for such incidental service exclusive of the amount paid or allotted for directors' fees does not exceed sixty dollars per calendar quarter is casual labor;

(l) Service performed in the employ of a voluntary employees' beneficial association providing for the payment of life, sickness, accident, or other benefits to the members of such association or their dependents or their designated beneficiaries, if admission to a membership in such association is limited to individuals who are officers or employees of a

municipal or public corporation, of a political subdivision of the state, or of the United States and no part of the net earnings of such association inures, other than through such payments, to the benefit of any private shareholder or individual;

(m) Service performed by an individual in the employ of a foreign government, including service as a consular or other officer or employee or of a nondiplomatic representative;

(n) Service performed in the employ of an instrumentality wholly owned by a foreign government if the service is of a character similar to that performed in foreign countries by employees of the United States or of an instrumentality thereof and if the director finds that the secretary of state of the United States has certified to the secretary of the treasury of the United States that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States and of instrumentalities thereof;

(o) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of congress;

(p) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law, and service performed as an intern in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to state law;

(q) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(r) Service performed in the employ of the United States or an instrumentality of the United States immune under the constitution of the United States from the contributions imposed by this chapter, except that to the extent that congress permits states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation act, this chapter shall be applicable to such instrumentalities and to services performed for such instrumentalities in the same manner, to the same extent, and on the same terms as to all other employers, individuals, and services, provided that if this state is not certified for any year by the proper agency of the United States under section 3304 of the "Internal Revenue Code of 1954," the payments required of such instrumentalities with respect to such year shall be refunded by the

director from the fund in the same manner and within the same period as is provided in division (E) of section 4141.09 of the Revised Code with respect to contributions erroneously collected;

(s) Service performed by an individual as a member of a band or orchestra, provided such service does not represent the principal occupation of such individual, and which service is not subject to or required to be covered for full tax credit against the tax imposed by the "Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311. Service performed after December 31, 1971, for a nonprofit organization, this state or its instrumentalities, or a political subdivision or its instrumentalities, as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving the work-relief or work-training.

(t) Service performed in the employ of a day camp whose camping season does not exceed twelve weeks in any calendar year, and which service is not subject to the "Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311. Service performed after December 31, 1971:

(i) In the employ of a hospital, if the service is performed by a patient of the hospital, as defined in division (W) of this section;

(ii) For a prison or other correctional institution by an inmate of the prison or correctional institution;

(iii) Service performed after December 31, 1977, by an inmate of a custodial institution operated by the state, a political subdivision, or a nonprofit organization.

(u) Service that is performed by a nonresident alien individual for the period the individual temporarily is present in the United States as a nonimmigrant under division (F), (J), (M), or (Q) of section 101(a)(15) of the "Immigration and Nationality Act," 66 Stat. 163, 8 U.S.C.A. 1101, as amended, that is excluded under section 3306(c)(19) of the "Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311.

(v) Notwithstanding any other provisions of division (B)(3) of this section, services that are excluded under divisions (B)(3)(g), (j), (k), and (l) of this section shall not be excluded from employment when performed for a nonprofit organization, as defined in division (X) of this section, or for this state or its instrumentalities, or for a political subdivision or its instrumentalities;

(w) Service that is performed by an individual working as an election official or election worker if the amount of remuneration received by the

individual during the calendar year for services as an election official or election worker is less than one thousand dollars;

(x) Service performed for an elementary or secondary school that is operated primarily for religious purposes, that is described in subsection 501(c)(3) and exempt from federal income taxation under subsection 501(a) of the Internal Revenue Code, 26 U.S.C.A. 501;

(y) Service performed by a person committed to a penal institution.

(4) If the services performed during one half or more of any pay period by an employee for the person employing that employee constitute employment, all the services of such employee for such period shall be deemed to be employment; but if the services performed during more than one half of any such pay period by an employee for the person employing that employee do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. As used in division (B)(4) of this section, "pay period" means a period, of not more than thirty-one consecutive days, for which payment of remuneration is ordinarily made to the employee by the person employing that employee. Division (B)(4) of this section does not apply to services performed in a pay period by an employee for the person employing that employee, if any of such service is excepted by division (B)(3)(o) of this section.

(C) "Benefits" means money payments payable to an individual who has established benefit rights, as provided in this chapter, for loss of remuneration due to the individual's unemployment.

(D) "Benefit rights" means the weekly benefit amount and the maximum benefit amount that may become payable to an individual within the individual's benefit year as determined by the director.

(E) "Claim for benefits" means a claim for waiting period or benefits for a designated week.

(F) "Additional claim" means the first claim for benefits filed following any separation from employment during a benefit year; "continued claim" means any claim other than the first claim for benefits and other than an additional claim.

(G)(1) "Wages" means remuneration paid to an employee by each of the employee's employers with respect to employment; except that wages shall not include that part of remuneration paid during any calendar year to an individual by an employer or such employer's predecessor in interest in the same business or enterprise, which in any calendar year is in excess of eight thousand two hundred fifty dollars on and after January 1, 1992; eight thousand five hundred dollars on and after January 1, 1993; eight thousand seven hundred fifty dollars on and after January 1, 1994; and nine thousand

dollars on and after January 1, 1995. Remuneration in excess of such amounts shall be deemed wages subject to contribution to the same extent that such remuneration is defined as wages under the "Federal Unemployment Tax Act," 84 Stat. 714 (1970), 26 U.S.C.A. 3301 to 3311, as amended. The remuneration paid an employee by an employer with respect to employment in another state, upon which contributions were required and paid by such employer under the unemployment compensation act of such other state, shall be included as a part of remuneration in computing the amount specified in this division.

(2) Notwithstanding division (G)(1) of this section, if, as of the computation date for any calendar year, the director determines that the level of the unemployment compensation fund is sixty per cent or more below the minimum safe level as defined in section 4141.25 of the Revised Code, then, effective the first day of January of the following calendar year, wages subject to this chapter shall not include that part of remuneration paid during any calendar year to an individual by an employer or such employer's predecessor in interest in the same business or enterprise which is in excess of nine thousand dollars. The increase in the dollar amount of wages subject to this chapter under this division shall remain in effect from the date of the director's determination pursuant to division (G)(2) of this section and thereafter notwithstanding the fact that the level in the fund may subsequently become less than sixty per cent below the minimum safe level.

(H)(1) "Remuneration" means all compensation for personal services, including commissions and bonuses and the cash value of all compensation in any medium other than cash, except that in the case of agricultural or domestic service, "remuneration" includes only cash remuneration. Gratuities customarily received by an individual in the course of the individual's employment from persons other than the individual's employer and which are accounted for by such individual to the individual's employer are taxable wages.

The reasonable cash value of compensation paid in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the director, provided that "remuneration" does not include:

(a) Payments as provided in divisions (b)(2) to (b)(16) of section 3306 of the "Federal Unemployment Tax Act," 84 Stat. 713, 26 U.S.C.A. 3301 to 3311, as amended;

(b) The payment by an employer, without deduction from the remuneration of the individual in the employer's employ, of the tax imposed upon an individual in the employer's employ under section 3101 of the "Internal Revenue Code of 1954," with respect to services performed after

October 1, 1941.

(2) "Cash remuneration" means all remuneration paid in cash, including commissions and bonuses, but not including the cash value of all compensation in any medium other than cash.

(I) "Interested party" means the director and any party to whom notice of a determination of an application for benefit rights or a claim for benefits is required to be given under section 4141.28 of the Revised Code.

(J) "Annual payroll" means the total amount of wages subject to contributions during a twelve-month period ending with the last day of the second calendar quarter of any calendar year.

(K) "Average annual payroll" means the average of the last three annual payrolls of an employer, provided that if, as of any computation date, the employer has had less than three annual payrolls in such three-year period, such average shall be based on the annual payrolls which the employer has had as of such date.

(L)(1) "Contributions" means the money payments to the state unemployment compensation fund required of employers by section 4141.25 of the Revised Code and of the state and any of its political subdivisions electing to pay contributions under section 4141.242 of the Revised Code. Employers paying contributions shall be described as "contributory employers."

(2) "Payments in lieu of contributions" means the money payments to the state unemployment compensation fund required of reimbursing employers under sections 4141.241 and 4141.242 of the Revised Code.

(M) An individual is "totally unemployed" in any week during which the individual performs no services and with respect to such week no remuneration is payable to the individual.

(N) An individual is "partially unemployed" in any week if, due to involuntary loss of work, the total remuneration payable to the individual for such week is less than the individual's weekly benefit amount.

(O) "Week" means the calendar week ending at midnight Saturday unless an equivalent week of seven consecutive calendar days is prescribed by the director.

(1) "Qualifying week" means any calendar week in an individual's base period with respect to which the individual earns or is paid remuneration in employment subject to this chapter. A calendar week with respect to which an individual earns remuneration but for which payment was not made within the base period, when necessary to qualify for benefit rights, may be considered to be a qualifying week. The number of qualifying weeks which may be established in a calendar quarter shall not exceed the number of

calendar weeks in the quarter.

(2) "Average weekly wage" means the amount obtained by dividing an individual's total remuneration for all qualifying weeks during the base period by the number of such qualifying weeks, provided that if the computation results in an amount that is not a multiple of one dollar, such amount shall be rounded to the next lower multiple of one dollar.

(P) "Weekly benefit amount" means the amount of benefits an individual would be entitled to receive for one week of total unemployment.

(Q)(1) "Base period" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year, except as provided in division (Q)(2) of this section.

(2) If an individual does not have sufficient qualifying weeks and wages in the base period to qualify for benefit rights, the individual's base period shall be the four most recently completed calendar quarters preceding the first day of the individual's benefit year. Such base period shall be known as the "alternate base period." If information as to weeks and wages for the most recent quarter of the alternate base period is not available to the director from the regular quarterly reports of wage information, which are systematically accessible, the director may, consistent with the provisions of section 4141.28 of the Revised Code, base the determination of eligibility for benefits on the affidavit of the claimant with respect to weeks and wages for that calendar quarter. The claimant shall furnish payroll documentation, where available, in support of the affidavit. The determination based upon the alternate base period as it relates to the claimant's benefit rights, shall be amended when the quarterly report of wage information from the employer is timely received and that information causes a change in the determination. As provided in division ~~(B)(1)(b)~~ of section 4141.28 of the Revised Code, any benefits paid and charged to an employer's account, based upon a claimant's affidavit, shall be adjusted effective as of the beginning of the claimant's benefit year. No calendar quarter in a base period or alternate base period shall be used to establish a subsequent benefit year.

(3) The "base period" of a combined wage claim, as described in division (H) of section 4141.43 of the Revised Code, shall be the base period prescribed by the law of the state in which the claim is allowed.

(4) For purposes of determining the weeks that comprise a completed calendar quarter under this division, only those weeks ending at midnight Saturday within the calendar quarter shall be utilized.

(R)(1) "Benefit year" with respect to an individual means the fifty-two week period beginning with the first day of that week with respect to which the individual first files a valid application for determination of benefit

ts, and thereafter the fifty-two week period beginning with the first day of that week with respect to which the individual next files a valid application for determination of benefit rights after the termination of the individual's last preceding benefit year, except that the application shall not be considered valid unless the individual has had employment in six weeks that is subject to this chapter or the unemployment compensation act of another state, or the United States, and has, since the beginning of the individual's previous benefit year, in the employment earned three times the average weekly wage determined for the previous benefit year. The "benefit year" of a combined wage claim, as described in division (H) of section 4141.43 of the Revised Code, shall be the benefit year prescribed by the law of the state in which the claim is allowed. Any application for determination of benefit rights made in accordance with section 4141.28 of the Revised Code is valid if the individual filing such application is unemployed, has been employed by an employer or employers subject to this chapter in at least twenty qualifying weeks within the individual's base period, and has earned or been paid remuneration at an average weekly wage of not less than twenty-seven and one-half per cent of the statewide average weekly wage for such weeks. For purposes of determining whether an individual has had sufficient employment since the beginning of the individual's previous benefit year to file a valid application, "employment" means the performance of services for which remuneration is payable.

(2) ~~Effective for applications filed on and after March 3, 2002~~ benefit years beginning on and after December 28, 2003, any application for determination of benefit rights made in accordance with section 4141.28 of the Revised Code is valid if the individual satisfies the criteria described in division (R)(1) of this section, and if the reason for the individual's separation from employment is not disqualifying pursuant to division (D)(2) of section 4141.29 or section 4141.291 of the Revised Code. A disqualification imposed pursuant to division (D)(2) of section 4141.29 or section 4141.291 of the Revised Code must be removed as provided in those sections as a requirement of establishing a valid application for benefit ~~rights filed on and after March 3, 2002~~ years beginning on and after December 28, 2003.

(3) The statewide average weekly wage shall be calculated by the director once a year based on the twelve-month period ending the thirtieth day of June, as set forth in division (B)(3) of section 4141.30 of the Revised Code, rounded down to the nearest dollar. Increases or decreases in the amount of remuneration required to have been earned or paid in order for individuals to have filed valid applications shall become effective on

Sunday of the calendar week in which the first day of January occurs that follows the twelve-month period ending the thirtieth day of June upon which the calculation of the statewide average weekly wage was based.

(4) As used in this division, an individual is "unemployed" if, with respect to the calendar week in which such application is filed, the individual is "partially unemployed" or "totally unemployed" as defined in this section or if, prior to filing the application, the individual was separated from the individual's most recent work for any reason which terminated the individual's employee-employer relationship, or was laid off indefinitely or for a definite period of seven or more days.

(S) "Calendar quarter" means the period of three consecutive calendar months ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, and the thirty-first day of December, or the equivalent thereof as the director prescribes by rule.

(T) "Computation date" means the first day of the third calendar quarter of any calendar year.

(U) "Contribution period" means the calendar year beginning on the first day of January of any year.

(V) "Agricultural labor," for the purpose of this division, means any service performed prior to January 1, 1972, which was agricultural labor as defined in this division prior to that date, and service performed after December 31, 1971:

(1) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife;

(2) In the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by hurricane, if the major part of such service is performed on a farm;

(3) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15 (g) of the "Agricultural Marketing Act," 46 Stat. 1550 (1931), 12 U.S.C. 1141j, as amended, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(4) In the employ of the operator of a farm in handling, planting, drying,

packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity, but only if the operator produced more than one half of the commodity with respect to which such service is performed;

(5) In the employ of a group of operators of farms, or a cooperative organization of which the operators are members, in the performance of service described in division (V)(4) of this section, but only if the operators produced more than one-half of the commodity with respect to which the service is performed;

(6) Divisions (V)(4) and (5) of this section shall not be deemed to be applicable with respect to service performed:

(a) In connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

(b) On a farm operated for profit if the service is not in the course of the employer's trade or business.

As used in division (V) of this section, "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities and orchards.

(W) "Hospital" means an institution which has been registered or licensed by the Ohio department of health as a hospital.

(X) "Nonprofit organization" means an organization, or group of organizations, described in section 501(c)(3) of the "Internal Revenue Code of 1954," and exempt from income tax under section 501(a) of that code.

(Y) "Institution of higher education" means a public or nonprofit educational institution which:

(1) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent;

(2) Is legally authorized in this state to provide a program of education beyond high school; and

(3) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, a program of post-graduate or post-doctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation.

For the purposes of this division, all colleges and universities in this state are institutions of higher education.

(Z) For the purposes of this chapter, "states" includes the District of

Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(AA) "Alien" means, for the purposes of division (A)(1)(d) of this section, an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to sections 214 (c) and 101 (a)(15)(H) of the "Immigration and Nationality Act," 66 Stat. 163, 8 U.S.C.A. 1101.

(BB)(1) "Crew leader" means an individual who furnishes individuals to perform agricultural labor for any other employer or farm operator, and:

(a) Pays, either on the individual's own behalf or on behalf of the other employer or farm operator, the individuals so furnished by the individual for the service in agricultural labor performed by them;

(b) Has not entered into a written agreement with the other employer or farm operator under which the agricultural worker is designated as in the employ of the other employer or farm operator.

(2) For the purposes of this chapter, any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other employer or farm operator shall be treated as an employee of the crew leader if:

(a) The crew leader holds a valid certificate of registration under the "Farm Labor Contractor Registration Act of 1963," 90 Stat. 2668, 7 U.S.C. 2041; or

(b) Substantially all the members of the crew operate or maintain tractors, mechanized harvesting or crop-dusting equipment, or any other mechanized equipment, which is provided by the crew leader; and

(c) If the individual is not in the employment of the other employer or farm operator within the meaning of division (B)(1) of this section.

(3) For the purposes of this division, any individual who is furnished by a crew leader to perform service in agricultural labor for any other employer or farm operator and who is not treated as in the employment of the crew leader under division (BB)(2) of this section shall be treated as the employee of the other employer or farm operator and not of the crew leader. The other employer or farm operator shall be treated as having paid cash remuneration to the individual in an amount equal to the amount of cash remuneration paid to the individual by the crew leader, either on the crew leader's own behalf or on behalf of the other employer or farm operator, for the service in agricultural labor performed for the other employer or farm operator.

(CC) "Educational institution" means an institution other than an institution of higher education as defined in division (Y) of this section which:

(1) Offers participants, trainees, or students an organized course of

study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes, or abilities from, by, or under the guidance of an instructor or teacher; and

(2) Is approved, chartered, or issued a permit to operate as a school by the state board of education or other government agency that is authorized within the state to approve, charter, or issue a permit for the operation of a school.

For the purposes of this division, the courses of study or training which the institution offers may be academic, technical, trade, or preparation for gainful employment in a recognized occupation.

Sec. 4141.06. There is hereby created an unemployment compensation review commission consisting of three full-time members appointed by the governor, with the advice and consent of the senate. Terms of office shall be staggered and shall be for six years, commencing on the twenty-eighth day of February and ending on the twenty-seventh day of February. Each member shall hold office from the date of 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. The chairperson of the commission and each member shall be paid a salary fixed pursuant to section 124.14 of the Revised Code. The governor, at any time, may remove any member for inefficiency, neglect of duty, malfeasance, misfeasance, or nonfeasance in office.

Not more than one of the appointees to the commission shall be a person who, on account of the appointee's previous vocation, employment, or affiliations, can be classed as a representative of employers, and not more than one of the appointees shall be a person who, on account of the appointee's previous vocation, employment, or affiliations, can be classed as a representative of employees. Not more than two of the members of the commission shall belong to the same political party. No member of the commission shall hold any position of trust or profit or engage in any occupation or business interfering or inconsistent with the member's duties as a member and no member shall serve on any committee of any political party. The commission shall elect a chairperson and a vice-chairperson. The vice-chairperson shall exercise the powers of the chairperson in the chairperson's absence.

No commission member shall participate in the disposition of any

appeal in which the member has an interest in the controversy. Challenges to the interest of any commission member may be made by any interested party defined in division (I) of section 4141.01 of the Revised Code and shall be in writing. All challenges shall be decided by the chairperson of the advisory council, who, if the challenge is found to be well taken, shall advise the governor, who shall appoint a member of the advisory council representing the same affiliations to act and receive the same compensation for serving in place of such member.

The commission may appoint a secretary to hold office at its pleasure. The secretary shall have such powers and shall perform such duties as the commission prescribes and shall keep a record of the proceedings of the commission and of its determinations. The secretary shall receive a salary fixed pursuant to section 124.14 of the Revised Code. Notwithstanding division (A)(8) of section 124.11 of the Revised Code, each member of the commission may appoint a private secretary who shall be in the classified service of the state and hold office at the pleasure of such member.

Two members of the commission constitute a quorum and no action of the commission is valid unless it has the concurrence of at least two members. A vacancy on the commission does not impair the right of a quorum to exercise all the rights and perform all the duties of the commission.

~~Hearings before the commission are held at the hearing officer level and the review level. Unless otherwise provided in this chapter, initial hearings involving claims for compensation and other unemployment compensation issues are conducted at the hearing officer level by hearing officers appointed by the commission. Hearings at the review level are conducted by hearing officers appointed by the commission, by members of the commission acting either individually or collectively, and by members of the commission and hearing officers acting jointly. In all hearings conducted at the review level, the commission shall designate the hearing officer or officers who are to conduct the hearing. When the term "hearing officer" is used in reference to hearings conducted at the review level, the term includes members of the commission. All decisions issued at the review level are issued by the commission.~~

The commission and its hearing officers shall hear appeals arising from determinations of the director of job and family services involving claims for compensation and other unemployment compensation issues. The commission shall adopt, amend, or rescind rules of procedure, and undertake such investigations, and take such action required for the hearing and disposition of appeals as it deems necessary and consistent with this chapter.

The rules adopted by the commission shall be effective to the extent that the rules are consistent with this chapter.

The commission, subject to Chapter 124. of the Revised Code, and with the approval of the governor, shall appoint such hearing officers as are necessary. The hearing officers shall be classified by the department of administrative services. Any promotions or increases in compensation of the hearing officers may be recommended by the commission subject to classifications which are made by the department of administrative services. The members of the commission and hearing officers may conduct hearings for unemployment compensation appeals coming before the commission. The members and hearing officers may exercise all powers provided by section 4141.17 of the Revised Code.

The commission, subject to Chapter 124. of the Revised Code, may employ such support personnel as are needed to carry out the duties of the commission. The salaries of such employees are fixed pursuant to section 124.14 of the Revised Code. The commission shall further provide itself and its employees with such offices, equipment, and supplies as are necessary, using those already provided for the department of job and family services wherever possible.

The commission shall have access to only the records of the department of job and family services that are necessary for the administration of this chapter and needed in the performance of its official duties. The commission shall have the right to request of the director necessary information from any work unit of the department having that information.

The commission shall prepare and submit to the director an annual budget financing the costs necessary to administer its duties under this chapter. The fund request shall relate to, but not be limited to, the United States department of labor's allocations for the commission's functions. The director shall approve the commission's request unless funds are insufficient to finance the request. The director shall notify the commission of the amount of funds available for its operation, as soon as possible, but not later than thirty days after receiving the allocation from the United States department of labor.

In the event that the director determines that sufficient funds are not available to approve the request as submitted and a revised budget is not agreed to within thirty days of the director's notification to the commission, the director of budget and management shall review and determine the funding levels for the commission and notify the commission and the director of the determination by the director of budget and management.

Sec. 4141.162. (A) The director of job and family services shall

lish an income and eligibility verification system that complies with section 1137 of the "Social Security Act." The programs included in the system are all of the following:

(1) Unemployment compensation pursuant to section 3304 of the "Internal Revenue Code of 1954";

(2) The state programs funded in part under part A of Title IV of the "Social Security Act" and administered under Chapters 5107. and 5108. of the Revised Code;

(3) Medicaid pursuant to Title XIX of the "Social Security Act";

(4) Food stamps pursuant to the "Food Stamp Act of 1977," 91 Stat. 958, 7 U.S.C.A. 2011, as amended;

(5) Any Ohio program under a plan approved under Title I, X, XIV, or XVI of the "Social Security Act."

Wage information provided by employers to the director shall be furnished to the income and eligibility verification system. Such information shall be used by the director to determine eligibility of individuals for unemployment compensation benefits and the amount of those benefits and used by the agencies that administer the programs identified in divisions (A)(2) to (5) of this section to determine or verify eligibility for or the amount of benefits under those programs.

The director shall fully implement the use of wage information to determine eligibility for and the amount of unemployment compensation benefits by September 30, 1988.

Information furnished under the system shall also be made available to the appropriate state or local child support enforcement agency for the purposes of an approved plan under Title IV-D of the "Social Security Act" and to the appropriate federal agency for the purposes of Titles II and XVI of the "Social Security Act."

(B) The director shall adopt rules as necessary under which the department of job and family services and other state agencies that the director determines must participate in order to ensure compliance with section 1137 of the "Social Security Act" exchange information with each other or authorized federal agencies about individuals who are applicants for or recipients of benefits under any of the programs enumerated in division (A) of this section. The rules shall extend to all of the following:

(1) A requirement for standardized formats and procedures for a participating agency to request and receive information about an individual, which information shall include the individual's social security number;

(2) A requirement that all applicants for and recipients of benefits under any program enumerated in division (A) of this section be notified at the

time of application, and periodically thereafter, that information available through the system may be shared with agencies that administer other benefit programs and utilized in establishing or verifying eligibility or benefit amounts under the other programs enumerated in division (A) of this section;

(3) A requirement that information is made available only to the extent necessary to assist in the valid administrative needs of the program receiving the information and is targeted for use in ways which are most likely to be productive in identifying and preventing ineligibility and incorrect payments;

(4) A requirement that information is adequately protected against unauthorized disclosures for purposes other than to establish or verify eligibility or benefit amounts under the programs enumerated in division (A) of this section;

(5) A requirement that a program providing information is reimbursed by the program using the information for the actual costs of furnishing the information and that the director be reimbursed by the participating programs for any actual costs incurred in operating the system;

(6) Requirements for any other matters necessary to ensure the effective, efficient, and timely exchange of necessary information or that the director determines must be addressed in order to ensure compliance with the requirements of section 1137 of the "Social Security Act."

(C) Each participating agency shall furnish to the income and eligibility verification system established in division (A) of this section that information, which the director, by rule, determines is necessary in order to comply with section 1137 of the "Social Security Act."

(D) Notwithstanding the information disclosure requirements of this section and section 4141.21 and division (A) of section ~~4141.282~~ 4141.284 of the Revised Code, the director shall administer those provisions of law so as to comply with section 1137 of the "Social Security Act."

(E) Requirements in section 4141.21 of the Revised Code with respect to confidentiality of information obtained in the administration of Chapter 4141. of the Revised Code and any sanctions imposed for improper disclosure of such information shall apply to the redisclosure of information disclosed under this section.

Sec. 4141.20. (A) Every employer, including those not otherwise subject to this chapter, shall furnish the director of job and family services upon request all information required by the director to carry out the requirements of this chapter. Every employer receiving from the director any blank with direction to fill it out shall cause it to be properly filled out,

in the manner prescribed by the director, so as to answer fully and correctly all questions therein propounded, and shall furnish all the information therein sought, or, if unable to do so, that employer shall give the director in writing good and sufficient reason for such failure.

The director may require that such information be verified under oath and returned to the director within the period fixed by the director or by law. The director or any person employed by the director for that purpose may examine under oath any such employer, or the officer, agent, or employee of that employer, for the purpose of ascertaining any information that the employer is required by this chapter to furnish to the director. Any employer who fails to furnish information as is required by the director under authority of this section shall forfeit five hundred dollars to be collected in a civil action brought against the employer in the name of the state.

(B) Effective with the calendar quarter beginning April 1, 1987, every contributory employer shall file a quarterly contribution report and a quarterly report of wages. The quarterly reports shall be filed no later than the last day of the first month following the close of the calendar quarter for which the quarterly reports are being filed. The employer shall enter on the quarterly contribution report the total and taxable remuneration paid to all employees during the quarter. The employer shall enter on the quarterly report of wages the name and social security number of each individual employed during the calendar quarter, the total remuneration paid the individual, the number of weeks during the quarter for which the individual was paid remuneration, and any other information as required by section 1137 of the "Social Security Act." ~~The director shall furnish the form or forms on which the quarterly reports are to be submitted or the employer may use other methods of reporting, including electronic information transmission methods, as approved by the director.~~

Effective until the calendar quarter beginning January 1, 1993, in case of failure to file the quarterly contribution report or the report of wages containing all the required contribution and wage information within the time prescribed by this section, there shall be assessed a forfeiture amounting to ten per cent of the contributions due; provided such forfeiture shall not be less than twenty-five nor more than two hundred fifty dollars. The director may waive the forfeiture only with respect to the report of wages, and the waiver may be approved only if the employer shows good cause for failure to file the required information.

Effective with the calendar quarter beginning January 1, 1993, in case of failure to file the quarterly contribution report containing all the required information within the time prescribed by this section, there shall be

assessed a forfeiture amounting to twenty-five one-hundredths of one per cent of the total remuneration paid by the employer, provided such forfeiture shall not be less than thirty nor more than five hundred dollars per quarterly contribution report. The director may waive the forfeiture only if the employer provides to the director a written statement showing good cause for failure to file the required quarterly contribution report.

Effective with the calendar quarter beginning January 1, 1993, in case of failure to file the quarterly report of wages containing all the required information within the time prescribed by this section, there shall be assessed a forfeiture amounting to twenty-five one-hundredths of one per cent of the total remuneration paid by the employer, provided such forfeiture shall be not less than thirty nor more than five hundred dollars per quarterly report of wages. The director may waive the forfeiture only if the employer provides to the director a written statement showing good cause for failure to file the required quarterly report of wages.

(C) Effective with the calendar quarter beginning April 1, 1987, every employer liable for payments in lieu of contributions shall file a quarterly payroll report and a quarterly report of wages. The employer shall file the quarterly reports no later than the last day of the first month following the close of the calendar quarter for which the quarterly reports are being filed. The employer shall enter on the quarterly payroll report the total remuneration paid to all employees during the quarter and the total wages that would have been taxable had the employer been subject to contributions. The employer shall enter on the quarterly report of wages the name and social security number of each individual employed during the calendar quarter, the total remuneration paid the individual, the number of weeks during the quarter for which the individual was paid remuneration, and any other information as required by section 1137 of the "Social Security Act." ~~The director shall furnish the form or forms on which the quarterly reports are to be submitted or the employer may use other methods of reporting, including electronic information transmission methods, as approved by the administrator.~~

Effective until the calendar quarter beginning January 1, 1993, in case of failure to file the quarterly payroll report or the report of wages containing all of the required payroll or wage information within the time prescribed by this section, the employer shall be assessed a forfeiture of twenty-five dollars per report. The director may waive the forfeiture only with respect to the report of wages, and such waiver may be approved only if the employer shows good cause for failure to file the required information.

Effective with the calendar quarter beginning January 1, 1993, in case of

failure to file the quarterly payroll report containing all the required wage information within the time prescribed by this section, the employer shall be assessed a forfeiture amounting to twenty-five one-hundredths of one per cent of the total remuneration paid by the employer, provided such forfeiture shall not be less than thirty nor more than five hundred dollars per quarterly payroll report. The director may waive the forfeiture only if the employer provides to the director a written statement showing good cause for failure to file the required quarterly payroll report.

Effective with the calendar quarter beginning January 1, 1993, in case of failure to file the quarterly report of wages containing all the required information within the time prescribed by this section, there shall be assessed a forfeiture amounting to twenty-five one-hundredths of one per cent of the total remuneration paid by the employer, provided such forfeiture shall be not less than thirty nor more than five hundred dollars per quarterly report of wages. The director may waive the forfeiture only if the employer provides to the director a written statement showing good cause for failure to file the required quarterly report of wages.

(D) Effective with the calendar quarter beginning January 1, 2002, every contributory employer shall file a quarterly contribution and wage report. The quarterly report shall be filed not later than the last day of the first month following the close of the calendar quarter for which the quarterly report is being filed. The employer shall enter on the quarterly report the total and taxable remuneration paid to all employees during the quarter, the name and social security number of each individual employed during the calendar quarter, the total remuneration paid the individual, the number of weeks during the quarter for which the individual was paid remuneration, and any other information as required by section 1137 of the "Social Security Act."

Effective with the calendar quarter beginning January 1, 2002, in case of failure to properly file the quarterly contribution and wage report containing all the required contribution and wage information within the time prescribed by this section, the director shall assess a forfeiture amounting to twenty-five one-hundredths of one per cent of the total remuneration reported by the employer, provided such forfeiture shall not be less than fifty nor more than one thousand dollars.

(E) Effective with the calendar quarter beginning January 1, 2002, every employer liable for payments in lieu of contributions shall file a quarterly payroll and wage report. The quarterly report shall be filed not later than the last day of the first month following the close of the calendar quarter for which the quarterly report is being filed. The employer shall enter on the

quarterly report the total remuneration paid to all employees during the quarter, the total wages that would have been taxable had the employer been subject to contributions, the name and social security number of each individual employed during the calendar quarter, the total remuneration paid the individual, the number of weeks during the quarter for which the individual was paid remuneration, and any other information as required by section 1137 of the "Social Security Act."

Effective with the calendar quarter beginning January 1, 2002, in case of failure to properly file the quarterly payroll and wage report containing all the required payroll and wage information within the time prescribed by this section, the director shall assess a forfeiture amounting to twenty-five one-hundredths of one per cent of the total remuneration reported by the employer, provided such forfeiture shall not be less than fifty nor more than one thousand dollars.

(F) The director may waive a forfeiture assessed under division (D) or (E) of this section if the employer provides to the director, within four years after the date the forfeiture was assessed, a written statement showing good cause for failure to properly file the required information.

(G) The director shall furnish the form or forms on which quarterly reports required under this section are to be submitted, or the employer may use other methods of reporting, including electronic information transmission methods, as approved by the director.

(H) All forfeitures required by this section shall be paid into the unemployment compensation special administrative fund as provided in section 4141.11 of the Revised Code.

Sec. 4141.24. (A)(1) The director of job and family services shall maintain a separate account for each employer and, except as otherwise provided in division (B) of section 4141.25 of the Revised Code respecting mutualized contributions, shall credit such employer's account with all the contributions, or payments in lieu of contributions, which the employer has paid on the employer's own behalf.

(2) If, as of the computation date, a contributory employer's account shows a negative balance computed as provided in division (A)(3) of section 4141.25 of the Revised Code, less any contributions due and unpaid on such date, which negative balance is in excess of the limitations imposed by divisions (A)(2)(a), (b), and (c) of this section and if the employer's account is otherwise eligible for the transfer, then before the employer's contribution rate is computed for the next succeeding contribution period, an amount equal to the amount of the excess eligible for transfer shall be permanently transferred from the account of such employer and charged to the

mutualized account provided in division (B) of section 4141.25 of the Revised Code.

(a) If as of any computation date, a contributory employer's account shows a negative balance in excess of ten per cent of the employer's average annual payroll, then before the employer's contribution rate is computed for the next succeeding contribution period, an amount equal to the amount of the excess shall be transferred from the account as provided in this division. No contributory employer's account may have any excess transferred pursuant to division (A)(2)(a) of this section, unless the employer's account has shown a positive balance for at least two consecutive computation dates prior to the computation date with respect to which the transfer is proposed. Each time a transfer is made pursuant to division (A)(2)(a) of this section, the employer's account is ineligible for any additional transfers under that division, until the account shows a positive balance for at least two consecutive computation dates subsequent to the computation date of which the most recent transfer occurs pursuant to division (A)(2)(a), (b), or (c) of this section.

(b) If at the next computation date after the computation date at which a transfer from the account occurs pursuant to division (A)(2)(a) of this section, a contributory employer's account shows a negative balance in excess of fifteen per cent of the employer's average annual payroll, then before the employer's contribution rate is computed for the next succeeding contribution period an amount equal to the amount of the excess shall be permanently transferred from the account as provided in this division.

(c) If at the next computation date subsequent to the computation date at which a transfer from a contributory employer's account occurs pursuant to division (A)(2)(b) of this section, the employer's account shows a negative balance in excess of twenty per cent of the employer's average annual payroll, then before the employer's contribution rate is computed for the next succeeding contribution period, an amount equal to the amount of the excess shall be permanently transferred from the account as provided in this division.

(d) If no transfer occurs pursuant to division (A)(2)(b) or (c) of this section, the employer's account is ineligible for any additional transfers under division (A)(2) until the account requalifies for a transfer pursuant to division (A)(2)(a) of this section.

(B) Any employer may make voluntary payments in addition to the contributions required under this chapter, in accordance with rules established by the director. Such payments shall be included in the employer's account as of the computation date, provided they are received

by the director by the thirty-first day of December following such computation date. Such voluntary payment, when accepted from an employer, will not be refunded in whole or in part. In determining whether an employer's account has a positive balance on two consecutive computation dates and is eligible for transfers under division (A)(2) of this section, the director shall exclude any voluntary payments made subsequent to the last transfer made under division (A)(2) of this section.

(C) All contributions to the fund shall be pooled and available to pay benefits to any individual entitled to benefits irrespective of the source of such contributions.

(D)(1) For the purposes of this section and sections 4141.241 and 4141.242 of the Revised Code, an employer's account shall be charged only for benefits based on remuneration paid by such employer. Benefits paid to an eligible individual shall be charged against the account of each employer within the claimant's base period in the proportion to which wages attributable to each employer of the claimant bears to the claimant's total base period wages. Charges to the account of a base period employer with whom the claimant is employed part-time at the time the claimant's application for a determination of benefits rights is filed shall be charged to the mutualized account when all of the following conditions are met:

(a) The claimant also worked part-time for the employer during the base period of the claim.

(b) The claimant is unemployed due to loss of other employment.

(c) The employer is not a reimbursing employer under section 4141.241 or 4141.242 of the Revised Code.

(2) Notwithstanding division (D)(1) of this section, charges to the account of any employer, including any reimbursing employer, shall be charged to the mutualized account if it finally is determined by a court on appeal that the employer's account is not chargeable for the benefits.

(3) Any benefits paid to a claimant under section 4141.28 of the Revised Code prior to a final determination of the claimant's right to the benefits shall be charged to the employer's account as provided in division (D)(1) of this section, provided that if there is no final determination of the claim by the subsequent thirtieth day of June, the employer's account shall be credited with the total amount of benefits that has been paid prior to that date, based on the determination that has not become final. The total amount credited to the employer's account shall be charged to a suspense account, which shall be maintained as a separate bookkeeping account and administered as a part of this section, and shall not be used in determining the account balance of the employer for the purpose of computing the employer's contribution rate

under section 4141.25 of the Revised Code.

If it is finally determined that the claimant is entitled to all or a part of the benefits in dispute, the suspense account shall be credited and the appropriate employer's account charged with the benefits. If it is finally determined that the claimant is not entitled to all or any portion of the benefits in dispute, the benefits shall be credited to the suspense account and a corresponding charge made to the mutualized account established in division (B) of section 4141.25 of the Revised Code, provided that, except as otherwise provided in this section, if benefits are chargeable to an employer or group of employers who is required or elects to make payments to the fund in lieu of contributions under section 4141.241 of the Revised Code, the benefits shall be charged to the employer's account in the manner provided in division (D)(1) of this section and division (B) of section 4141.241 of the Revised Code, and no part of the benefits may be charged to the suspense account provided in this division.

To the extent that benefits that have been paid to a claimant and charged to the employer's account are found not to be due the claimant and are recovered by the director as provided in section 4141.35 of the Revised Code, they shall be credited to the employer's account.

(4) The director shall notify each employer at least once each month of the benefits charged to the employer's account since the last preceding notice; except that for the purposes of sections 4141.241 and 4141.242 of the Revised Code which provides the billing of employers on a payment in lieu of a contribution basis, the director may prescribe a quarterly or less frequent notice of benefits charged to the employer's account. Such notice will show a summary of the amount of benefits paid which were charged to the employer's account. This notice shall not be deemed a determination of the claimant's eligibility for benefits. Any employer so notified, however, may file within fifteen days after the mailing date of the notice, an exception to charges appearing on the notice on the grounds that such charges are not in accordance with this section. The director shall promptly examine the exception to such charges and shall notify the employer of the director's decision thereon, which decision shall become final unless appealed to the unemployment compensation review commission in the manner provided in section 4141.26 of the Revised Code. For the purposes of this division, an exception is considered timely filed when it has been received as provided in division ~~(D)(2)~~ (D)(1) of section ~~4141.28~~ 4141.281 of the Revised Code.

(E) The director shall terminate and close the account of any contributory employer who has been subject to this chapter if the enterprise for which the account was established is no longer in operation and it has

had no payroll and its account has not been chargeable with benefits for a period of five consecutive years. The amount of any positive balance, computed as provided in division (A)(3) of section 4141.25 of the Revised Code, in an account closed and terminated as provided in this section shall be credited to the mutualized account as provided in division (B)(2)(b) of section 4141.25 of the Revised Code. The amount of any negative balance, computed as provided in division (A)(3) of section 4141.25 of the Revised Code, in an account closed and terminated as provided in this section shall be charged to the mutualized account as provided in division (B)(1)(b) of section 4141.25 of the Revised Code. The amount of any positive balance or negative balance, credited or charged to the mutualized account after the termination and closing of an employer's account, shall not thereafter be considered in determining the contribution rate of such employer. The closing of an employer's account as provided in this division shall not relieve such employer from liability for any unpaid contributions or payment in lieu of contributions which are due for periods prior to such closing.

If the director finds that a contributory employer's business is closed solely because of the entrance of one or more of the owners, officers, or partners, or the majority stockholder, into the armed forces of the United States, or any of its allies, or of the United Nations after July 1, 1950, such employer's account shall not be terminated and if the business is resumed within two years after the discharge or release of such persons from active duty in the armed forces, the employer's experience shall be deemed to have been continuous throughout such period. The reserve ratio of any such employer shall be the total contributions paid by such employer minus all benefits, including benefits paid to any individual during the period such employer was in the armed forces, based upon wages paid by the employer prior to the employer's entrance into the armed forces divided by the average of the employer's annual payrolls for the three most recent years during the whole of which the employer has been in business.

(F) If an employer transfers the employer's business or otherwise reorganizes such business, the successor in interest shall assume the resources and liabilities of such employer's account, and continue the payment of all contributions, or payments in lieu of contributions, due under this chapter. If an employer acquires substantially all of the assets in a trade or business of another employer, or a clearly segregable and identifiable portion of an employer's enterprise, and immediately after the acquisition employs in the employer's trade or business substantially the same individuals who immediately prior to the acquisition were employed in the

trade or business or in the separate unit of such trade or business of such predecessor employer, then, upon application to the director signed by the predecessor employer and the acquiring employer, the employer acquiring such enterprise is the successor in interest. In the case of a transfer of a portion of an employer's enterprise, only that part of the experience with unemployment compensation and payrolls that is directly attributable to the segregated and identifiable part shall be transferred and used in computing the contribution rate of the successor employer on the next computation date. The director by rule may prescribe procedures for effecting transfers of experience as provided for in this section.

(G) For the purposes of this section, two or more employers who are parties to or the subject of a merger, consolidation, or other form of reorganization effecting a change in legal identity or form are deemed to be a single employer if the director finds that immediately after such change the employing enterprises of the predecessor employers are continued solely through a single employer as successor thereto, and immediately after such change such successor is owned or controlled by substantially the same interests as the predecessor employers, and the successor has assumed liability for all contributions required of the predecessor employers, and the consideration of such two or more employers as a single employer for the purposes of this section would not be inequitable.

(H) No rate of contribution less than two and seven-tenths per cent shall be permitted a contributory employer succeeding to the experience of another contributory employer pursuant to this section for any period subsequent to such succession, except in accordance with rules prescribed by the director, which rules shall be consistent with federal requirements for additional credit allowance in section 3303 of the "Internal Revenue Code of 1954" and consistent with this chapter, except that such rules may establish a computation date for any such period different from the computation date generally prescribed by this chapter, and may define "calendar year" as meaning a twelve-consecutive-month period ending on the same day of the year as that on which such computation date occurs.

(I) The director may prescribe rules for the establishment, maintenance, and dissolution of common contribution rates for two or more contributory employers, and in accordance with such rules and upon application by two or more employers shall establish such common rate to be computed by merging the several contribution rate factors of such employers for the purpose of establishing a common contribution rate applicable to all such employers.

Sec. 4141.26. (A) As soon as practicable after the first day of September

but not later than the first day of December of each year, the director of job and family services shall notify each employer of the employer's contribution rate as determined for the next ensuing contribution period pursuant to section 4141.25 of the Revised Code provided the employer has furnished the director, by the first day of September following the computation date, with the wage information for all past periods necessary for the computation of the contribution rate.

(B)(1) In the case of contribution rates applicable to contribution periods beginning on or before December 31, 1992, if the employer has not furnished the necessary wage information, the employer's contribution rate for such contribution period shall be the maximum rate provided in such section, except that, if the employer files the necessary wage information by the end of the thirtieth day following the issuance of the maximum rate notice, the employer's rate then shall be computed as provided in section 4141.25 of the Revised Code.

(2) In the case of contribution rates applicable to contribution periods beginning on or after January 1, 1993, and before January 1, 1995, if the employer has not furnished the necessary wage information, the employer's contribution rate for such contribution period shall not be computed as provided in section 4141.25 of the Revised Code, but instead shall be assigned at the maximum rate provided in that section, with the following exceptions:

(a) If the employer files the necessary wage information by December thirty-first of the year immediately preceding the contribution period for which the rate is to be effective, the employer's rate then shall be computed as provided in division (A) of section 4141.25 of the Revised Code.

(b) The director may waive the maximum contribution rate assigned pursuant to division (B)(2) of this section if the employer meets all of the following conditions within thirty days after the director mails the notice of the maximum contribution rate assigned pursuant to division (B)(2) of this section:

(i) Provides to the director a written request for waiver of the maximum contribution rate, clearly demonstrating that failure to timely furnish the wage information as required by division (A) of this section was a result of circumstances beyond the control of the employer or the employer's agent, except that negligence on the part of the employer shall not be considered beyond the control of the employer or the employer's agent;

(ii) Furnishes to the director all of the wage information as required by division (A) of this section and all quarterly reports due pursuant to section 4141.20 of the Revised Code;

(iii) Pays in full all contributions, payments in lieu of contributions, interest, forfeiture, and fines for each quarter for which such payments are due.

(3) In the case of contribution rates applicable to contribution periods beginning on or after January 1, 1995, if the employer has not timely furnished the necessary wage information as required by division (A) of this section, the employer's contribution rate for such contribution period shall not be computed as provided in section 4141.25 of the Revised Code, but instead shall be assigned a contribution rate equal to one hundred twenty-five per cent of the maximum rate provided in that section, with the following exceptions:

(a) If the employer files the necessary wage information by the thirty-first day of December of the year immediately preceding the contribution period for which the rate is to be effective, the employer's rate shall be computed as provided in division (A) of section 4141.25 of the Revised Code;

(b) The director may waive the contribution rate assigned pursuant to division (B)(3) of this section if the employer meets all of the following conditions within thirty days after the director mails to the employer the notice of the contribution rate assigned pursuant to division (B)(3) of this section:

(i) Provides to the director a written request for waiver of the contribution rate, clearly demonstrating that the failure to timely furnish the wage information as required by division (A) of this section was a result of circumstances beyond the control of the employer or the employer's agent, except that negligence on the part of the employer shall not be considered to be beyond the control of the employer or the employer's agent;

(ii) Furnishes to the director all of the wage information as required by division (A) of this section and all quarterly reports due pursuant to section 4141.20 of the Revised Code;

(iii) Pays in full all contributions, payments in lieu of contributions, interest, forfeiture, and fines for each quarter for which such payments are due.

(c) The director shall revise the contribution rate of an employer who has not timely furnished the necessary wage information as required by division (A) of this section, who has been assigned a contribution rate pursuant to division (B)(3) of this section, and who does not meet the requirements of division (B)(3)(a) or (b) of this section, if the employer furnishes the necessary wage information to the director within thirty-six months following the thirty-first day of December of the year immediately

preceding the contribution period for which the rate is to be effective. The revised rate under division (B)(3)(c) of this section shall be equal to one hundred twenty per cent of the contribution rate that would have resulted if the employer had timely furnished the necessary wage information under division (A) of this section.

(4) The director shall deny an employer's request for a waiver of the requirement that the employer's contribution rate be the maximum rate under division (B)(2)(b) of this section, or be the rate assigned under division (B)(3)(b) of this section, or for a revision of the employer's rate as provided in division (B)(3)(c) of this section if the director finds that the employer's failure to timely file the necessary wage information was due to an attempt to evade payment.

(5) The director shall round the contribution rates the director determines under this division to the nearest tenth of one per cent.

(C) If, as a result of the computation pursuant to division (B) of this section, the employer's account shows a negative balance in excess of the applicable limitations, in that computation, the excess above applicable limitations shall not be transferred from the account as provided in division (A)(2) of section 4141.24 of the Revised Code.

(D) The rate determined pursuant to this section and section 4141.25 of the Revised Code shall become binding upon the employer unless:

(1) The employer makes a voluntary contribution as provided in division (B) of section 4141.24 of the Revised Code, whereupon the director shall issue the employer a revised contribution rate notice if the contribution changes the employer's rate; or

(2) Within thirty days after the mailing of notice of the employer's rate or a revision of it to the employer's last known address or, in the absence of mailing of such notice, within thirty days after the delivery of such notice, the employer files an application with the director for reconsideration of the director's determination of such rate setting forth reasons for such request. The director shall promptly examine the application for reconsideration and shall notify the employer of the director's reconsidered decision, which shall become final unless, within thirty days after the mailing of such notice by certified mail, return receipt requested, the employer files an application for review of such decision with the unemployment compensation review commission. The commission shall promptly examine the application for review of the director's decision and shall grant such employer an opportunity for a fair hearing. The proceeding at the hearing before the commission shall be recorded in the means and manner prescribed by the commission. For the purposes of this division, the review is considered

y filed when it has been received as provided in division ~~(D)(2)~~(D)(1) of section ~~4141.28~~ 4141.281 of the Revised Code.

The employer and the director shall be promptly notified of the commission's decision, which shall become final unless, within thirty days after the mailing of notice of it to the employer's last known address by certified mail, return receipt requested, or, in the absence of mailing, within thirty days after delivery of such notice, an appeal is taken by the employer or the director to the court of common pleas of Franklin county. Such appeal shall be taken by the employer or the director by filing a notice of appeal with the clerk of such court and with the commission. Such notice of appeal shall set forth the decision appealed and the errors in it complained of. Proof of the filing of such notice with the commission shall be filed with the clerk of such court.

The commission, upon written demand filed by the appellant and within thirty days after the filing of such demand, shall file with the clerk a certified transcript of the record of the proceedings before the commission pertaining to the determination or order complained of, and the appeal shall be heard upon such record certified to the commission. In such appeal, no additional evidence shall be received by the court, but the court may order additional evidence to be taken before the commission, and the commission, after hearing such additional evidence, shall certify such additional evidence to the court or it may modify its determination and file such modified determination, together with the transcript of the additional record, with the court. After an appeal has been filed in the court, the commission, by petition, may be made a party to such appeal. Such appeal shall be given precedence over other civil cases. The court may affirm the determination or order complained of in the appeal if it finds, upon consideration of the entire record, that the determination or order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of such a finding, it may reverse, vacate, or modify the determination or order or make such other ruling as is supported by reliable, probative, and substantial evidence and is in accordance with law. The judgment of the court shall be final and conclusive unless reversed, vacated, or modified on appeal. An appeal may be taken from the decision of the court of common pleas of Franklin county.

(E) The appeal provisions of division (D) of this section apply to all other determinations and orders of the director affecting the liability of an employer to pay contributions or the amount of such contributions, determinations respecting application for refunds of contributions, determinations respecting applications for classification of employment as

seasonal under section 4141.33 of the Revised Code, and exceptions to charges of benefits to an employer's account as provided in division (D) of section 4141.24 of the Revised Code.

(F) The validity of any general order or rule of the director adopted pursuant to this chapter or of any final order or action of the unemployment compensation review commission respecting any such general order or rule may be determined by the court of common pleas of Franklin county, and such general order, rule, or action may be sustained or set aside by the court on an appeal to it which may be taken by any person affected by the order, rule, or action in the manner provided by law. Such appeal to the court of common pleas of Franklin county shall be filed within thirty days after the date such general order, rule, or action was publicly released by the director or the commission. Either party to such action may appeal from the court of common pleas of Franklin county as in ordinary civil cases.

(G) Notwithstanding any determination made in pursuance of sections 4141.23 to 4141.26 of the Revised Code, no individual who files a claim for benefits shall be denied the right to a fair hearing as provided in section ~~4141.28~~ 4141.281 of the Revised Code, or the right to have a claim determined on the merits of it.

(H)(1) Notwithstanding division (D) of this section, if the director finds that an omission or error in the director's records or employer reporting caused the director to issue an erroneous determination or order affecting contribution rates, the liability of an employer to pay contributions or the amount of such contributions, determinations respecting applications for refunds of contributions, determinations respecting applications for classification of seasonal status under section 4141.33 of the Revised Code, or exceptions to charges of benefits to an employer's account as provided in division (D) of section 4141.24 of the Revised Code, the director may issue a corrected determination or order correcting the erroneous determination or order, except as provided in division (H)(2) of this section.

(2) The director may not issue a corrected determination or order correcting an erroneous determination or order if both of the following apply:

(a) The erroneous determination or order was caused solely by an omission or error of the director;

(b) A correction of the erroneous determination or order would adversely affect the employer or any of the employers that were parties in interest to the erroneous determination or order.

A corrected determination or order issued under this division takes precedence over and renders void the erroneous determination or order and

is appealable as provided in division (D) of this section.

Sec. 4141.28.

BENEFITS

(A) FILINGS

Applications for determination of benefit rights and claims for benefits shall be filed with the director of job and family services. Such applications and claims also may be filed with an employee of another state or federal agency charged with the duty of accepting applications and claims for unemployment benefits or with an employee of the unemployment insurance commission of Canada.

When an unemployed individual files an application for determination of benefit rights, the director shall furnish the individual with an explanation of the individual's appeal rights. The explanation shall describe clearly the different levels of appeal and explain where and when each appeal must be filed.

(B) APPLICATION FOR DETERMINATION OF BENEFIT RIGHTS

In filing an application, an individual shall furnish the director with the name and address of the individual's most recent separating employer and the individual's statement of the reason for separation from the employer. The director shall promptly notify the individual's most recent separating employer of the filing and request the reason for the individual's unemployment, unless that notice is not necessary under conditions the director establishes by rule. The director may request from the individual or any employer information necessary for the determination of the individual's right to benefits. The employer shall provide the information requested within ten working days after the request is sent. If necessary to ensure prompt determination and payment of benefits, the director shall base the determination on the information that is available.

An individual filing an application for determination of benefit rights shall disclose, at the time of filing, whether or not the individual owes child support obligations.

(C) MASS LAYOFFS

An employer who lays off or separates within any seven-day period fifty or more individuals because of lack of work shall furnish notice to the director of the dates of layoff or separation and the approximate number of individuals being laid off or separated. The notice shall be furnished at least three working days prior to the date of the first day of such layoff or separation. In addition, at the time of the layoff or separation the employer shall furnish to the individual and to the director information necessary to determine the individual's eligibility for unemployment compensation.

(D) DETERMINATION OF BENEFIT RIGHTS

The director shall promptly examine any application for determination of benefit rights. On the basis of the information available to the director under this chapter, the director shall determine whether or not the application is valid, and if valid, the date on which the benefit year shall commence and the weekly benefit amount. The director shall promptly notify the applicant, employers in the applicant's base period, and any other interested parties of the determination and the reasons for it. In addition, the determination issued to the claimant shall include the total amount of benefits payable. The determination issued to each chargeable base period employer shall include the total amount of benefits that may be charged to the employer's account.

(E) CLAIM FOR BENEFITS

The director shall examine the first claim and any additional claim for benefits. On the basis of the information available, the director shall determine whether the claimant's most recent separation and, to the extent necessary, prior separations from work, allow the claimant to qualify for benefits. Written notice of the determination granting or denying benefits shall be sent to the claimant, the most recent separating employer, and any other employer involved in the determination, except that written notice is not required to be sent to the claimant if the reason for separation is lack of work and the claim is allowed.

If the director identifies an eligibility issue, the director shall send notice to the claimant of the issue identified and specify the week or weeks involved. The claimant has a minimum of five business days after the notice is sent to respond to the information included in the notice, and after the time allowed as determined by the director, the director shall make a determination. The claimant's response may include a request for a fact-finding interview when the eligibility issue is raised by an informant or source other than the claimant, or when the eligibility issue, if determined adversely, disqualifies the claimant for the duration of the claimant's period of unemployment.

When the determination of a continued claim for benefits results in a disallowed claim, the director shall notify the claimant of the disallowance and the reasons for it.

(F) ELIGIBILITY NOTICE

Any base period or subsequent employer of a claimant who has knowledge of specific facts affecting the claimant's right to receive benefits for any week may notify the director in writing of those facts. The director shall prescribe a form for such eligibility notice, but failure to use the form

shall not preclude the director's examination of any notice.

To be considered valid, an eligibility notice must: contain in writing, a statement that identifies either a source who has firsthand knowledge of the information or an informant who can identify the source; provide specific and detailed information that may potentially disqualify the claimant; provide the name and address of the source or the informant; and appear to the director to be reliable and credible.

An eligibility notice is timely filed if received or postmarked prior to or within forty-five calendar days after the end of the week with respect to which a claim for benefits is filed by the claimant. An employer who timely files a valid eligibility notice shall be an interested party to the claim for benefits which is the subject of the notice.

The director shall consider the information contained in the eligibility notice, together with other available information. After giving the claimant notice and an opportunity to respond, the director shall make a determination and inform the notifying employer, the claimant, and other interested parties of the determination.

(G) CORRECTED DETERMINATION

If the director finds within the benefit year that a determination made by the director was erroneous due to an error in an employer's report or any typographical or clerical error in the director's determination, or as shown by correct remuneration information received by the director, the director shall issue a corrected determination to all interested parties. The corrected determination shall take precedence over and void the prior determination of the director. The director shall not issue a corrected determination when the commission or a court has jurisdiction with respect to that determination.

(H) EFFECT OF COMMISSION DECISIONS

In making determinations, the director shall follow decisions of the unemployment compensation review commission which have become final with respect to claimants similarly situated.

(I) PROMPT PAYMENTS

If benefits are allowed by the director, a hearing officer, the commission, or a court, the director shall pay benefits promptly, notwithstanding any further appeal, provided that if benefits are denied on appeal, of which the parties have notice and an opportunity to be heard, the director shall withhold payment of benefits pending a decision on any further appeal.

Sec. 4141.281.

APPEALS

(A) APPEAL FILED

Any party notified of a determination of benefit rights or a claim for benefits determination may appeal within twenty-one calendar days after the written determination was sent to the party or within an extended period as provided under division (D)(9) of this section.

(B) REDETERMINATION

Within twenty-one days after receipt of the appeal, the director of job and family services shall issue a redetermination or transfer the appeal to the unemployment compensation review commission. A redetermination under this section is appealable in the same manner as an initial determination by the director.

(C) REVIEW COMMISSION

(1) JURISDICTION

The commission shall provide an opportunity for a fair hearing to the interested parties of appeals over which the commission has jurisdiction. The commission has jurisdiction over an appeal on transfer or on direct appeal to the commission. If the commission concludes that a pending appeal does not warrant a hearing, the commission may remand the appeal to the director for redetermination. The commission retains jurisdiction until the appeal is remanded to the director or a final decision is issued and appealed to court, or the time to request a review or to appeal a decision of a hearing officer or the commission is expired.

(2) CONDUCT OF HEARINGS

Hearings before the commission are held at the hearing officer level and the review level. Unless otherwise provided in this chapter, initial hearings involving claims for compensation and other unemployment compensation issues are conducted at the hearing officer level by hearing officers appointed by the commission. Hearings at the review level are conducted by hearing officers appointed by the commission, by members of the commission acting either individually or collectively, and by members of the commission and hearing officers acting jointly. In all hearings conducted at the review level, the commission shall designate the hearing officer or officers who are to conduct the hearing. When the term "hearing officer" is used in reference to hearings conducted at the review level, the term includes members of the commission. All decisions issued at the review level are issued by the commission.

Provisions contained in the remainder of this paragraph apply to hearings at both the hearing officer level and the review level. The principles of due process in administrative hearings shall be applied to all hearings conducted under the authority of the commission. In conducting hearings, all hearing officers shall control the conduct of the hearing.

exclude irrelevant or cumulative evidence, and give weight to the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of serious affairs. Hearing officers have an affirmative duty to question parties and witnesses in order to ascertain the relevant facts and to fully and fairly develop the record. Hearing officers are not bound by common law or statutory rules of evidence or by technical or formal rules of procedure. No person shall impose upon the claimant or the employer any burden of proof as is required in a court of law. The proceedings at hearings shall be recorded by mechanical means or otherwise as may be prescribed by the commission. In the absence of further proceedings, the record need not be transcribed. After considering all of the evidence, a hearing officer shall issue a written decision that sets forth the facts as the hearing officer finds them to be, cites the applicable law, and gives the reasoning for the decision.

(3) HEARING OFFICER LEVEL

When an appeal is transferred to the commission by the director, the commission shall notify all interested parties of the time and place of the hearing and assign the appeal for a hearing by a hearing officer. The hearings shall be de novo, except that the director's file pertaining to a case shall be included in the record to be considered.

Following a hearing, the hearing officer shall affirm, modify, or reverse the determination of the director in the manner that appears just and proper. The hearing officer's written decision shall be sent to all interested parties. The decision shall state the right of an interested party to request a review by the commission.

A request for review shall be filed within twenty-one days after the decision was sent to the party, or within an extended period as provided under division (D)(9) of this section. The hearing officer's decision shall become final unless a request for review is filed and allowed or the commission removes the appeal to itself within twenty-one days after the hearing officer's decision is sent.

(4) REVIEW LEVEL

At the review level, the commission may affirm, modify, or reverse previous determinations by the director or at the hearing officer level. At the review level, the commission may affirm, modify, or reverse a hearing officer's decision or remand the decision to the hearing officer level for further hearing. The commission shall consider an appeal at the review level under the following circumstances: when an appeal is required to be heard initially at the review level under this chapter; when the commission on its own motion removes an appeal to itself within twenty-one days after the

hearing officer's decision is sent; when the assigned hearing officer refers an appeal to the commission before the hearing officer's decision is sent; or when an interested party files a request for review with the commission within twenty-one days after the hearing officer's decision is sent.

(5) COMMISSION EXAMINATION

The commission shall consider a request for review by an interested party, including the reasons for the request. The commission may adopt rules prescribing the methods for requesting a review. The commission may allow or disallow the request for review. The disallowance of a request for review constitutes a final decision by the commission.

(6) REVIEW PROCEDURE

If the commission allows a request for review, the commission shall notify all interested parties of that fact and provide a reasonable period of time, as the commission defines by rule, in which interested parties may file a response. After that period of time, the commission, based on the record before it, may do one of the following: affirm the decision of the hearing officer; provide for the appeal to be heard or reheard at the hearing officer or review level; provide for the appeal to be heard at the review level as a potential precedential decision; or provide for the decision to be rewritten without further hearing at the review level. When a further hearing is provided or the decision is rewritten, the commission may affirm, modify, or reverse the previous decision.

(7) NOTICES

The commission shall send written notice to all interested parties when it orders an appeal to be heard or reheard. The notice shall include the reasons for the hearing or rehearing.

(8) PRECEDENTIAL

An appeal the commission identifies as potentially precedential shall be heard at the review level. In the notice for that type of hearing, the commission shall notify the director, all interested parties, and any other parties, as the commission determines appropriate, that the appeal is designated as potentially precedential. After the hearing, parties shall be given the opportunity to submit briefs on the issue or issues involved. The commission may designate a decision as precedential after issuing the decision or at any point in the appeal process, even if the commission does not initially identify the appeal as potentially precedential.

(9) MASS APPEALS

When the commission determines that it has five appeals pending that have common facts or common issues, the commission may transfer the appeals to the review level on its own motion to be heard as a mass appeal.

including appeals from claimants separated due to a labor dispute, on the condition that there are fewer than twenty-five claimants involved.

To facilitate a mass hearing, the commission may allow an authorized agent to accept notice of hearing on behalf of claimants. An authorized agent may waive this notice of hearing and also the sending of decisions to individual claimants represented by the agent.

(D) SPECIAL PROVISIONS

(1) TIMELINESS OF APPEALS

The date of the mailing provided by the director or the commission is sufficient evidence upon which to conclude that a determination, redetermination, or decision was sent to the party on that date. Appeals may be filed with the director, commission, with an employee of another state or federal agency charged with the duty of accepting claims, or with the unemployment insurance commission of Canada. Any timely written notice by an interested party indicating a desire to appeal shall be accepted.

The director, commission, or authorized agent must receive the appeal within the specified appeal period in order for the appeal to be deemed timely filed, except that: if the United States postal service is used as the means of delivery, the enclosing envelope must have a postmark date or postal meter postmark that is on or before the last day of the specified appeal period; and where the postmark is illegible or missing, the appeal is timely filed if received not later than the end of the fifth calendar day following the last day of the specified appeal period.

The director and the commission may adopt rules pertaining to alternate methods of filing appeals under this section.

(2) WAIVER

Interested parties may waive, in writing, a hearing at either the hearing officer or review level. If the parties waive a hearing, the hearing officer shall issue a decision based on the evidence of record.

(3) TELEPHONE HEARINGS

Hearing officers may conduct hearings at either the hearing officer or review level in person or by telephone. The commission shall adopt rules that designate the circumstances under which hearing officers may conduct a hearing by telephone or grant a party to the hearing the opportunity to object to a hearing by telephone. An interested party whose hearing would be by telephone may elect to have an in-person hearing, provided that the party agrees to have the hearing at the time and place the commission determines pursuant to rule.

(4) EVENING HEARINGS

Where a party requests that a hearing at either the hearing officer or

review level be scheduled in the evening because the party is employed during the day, the commission shall schedule the hearing during hours that the party is not employed. If a conflict concerning a request for an evening hearing and an in-person hearing arises, the commission shall schedule the hearing by telephone during evening hours.

(5) NO APPEARANCE -- APPELLANT

For hearings at either the hearing officer or review level, if the appealing party fails to appear at the hearing, the hearing officer shall dismiss the appeal. The commission shall vacate the dismissal upon a showing that written notice of the hearing was not sent to that party's last known address, or good cause for the appellant's failure to appear is shown to the commission within fourteen days after the hearing date.

If the commission finds that the appealing party's reason for failing to appear does not constitute good cause for failing to appear, the commission shall send written notice of that finding, and the appealing party may request a hearing to present testimony on the issue of good cause for failing to appear. The appealing party shall file a request for a hearing on the issue of good cause for failing to appear within ten days after the commission sends written notice indicating a finding of no good cause for failing to appear.

(6) NO APPEARANCE -- APPELLEE

For hearings at either the hearing officer or review level, if the appellee fails to appear at the hearing, the hearing officer shall proceed with the hearing and shall issue a decision based on the evidence of record. The commission shall vacate the decision upon a showing that written notice of the hearing was not sent to the appellee's last known address, or good cause for the appellee's failure to appear is shown to the commission within fourteen days after the hearing date.

(7) AGENT

Any appeal or request for review may be executed on behalf of any party or any group of claimants by an agent.

(8) COLLATERAL ESTOPPEL

No finding of fact or law, decision, or order of the director, hearing officer, or the commission under this section or section 4141.28 of the Revised Code shall be given collateral estoppel or res judicata effect in any separate or subsequent judicial, administrative, or arbitration proceeding, other than a proceeding arising under this chapter.

(9) EXTENSION OF APPEAL PERIODS

The time for filing an appeal or a request for review under this section or a court appeal under section 4141.282 of the Revised Code shall be extended in the manner described in the following four sentences. When the

last day of an appeal period is a Saturday, Sunday, or legal holiday, the appeal period is extended to the next work day after the Saturday, Sunday, or legal holiday. When an interested party provides certified medical evidence stating that the interested party's physical condition or mental capacity prevented the interested party from filing an appeal or request for review under this section within the appropriate twenty-one-day period, the appeal period is extended to twenty-one days after the end of the physical or mental condition, and the appeal or request for review is considered timely filed if filed within that extended period. When an interested party provides evidence, which evidence may consist of testimony from the interested party, that is sufficient to establish that the party did not actually receive the determination or decision within the applicable appeal period under this section, and the director or the commission finds that the interested party did not actually receive the determination or decision within the applicable appeal period, then the appeal period is extended to twenty-one days after the interested party actually receives the determination or decision. When an interested party provides evidence, which evidence may consist of testimony from the interested party, that is sufficient to establish that the party did not actually receive a decision within the thirty-day appeal period provided in section 4141.282 of the Revised Code, and a court of common pleas finds that the interested party did not actually receive the decision within that thirty-day appeal period, then the appeal period is extended to thirty days after the interested party actually receives the decision.

Sec. 4141.282.

APPEAL TO COURT

(A) THIRTY-DAY DEADLINE FOR APPEAL

Any interested party, within thirty days after written notice of the final decision of the unemployment compensation review commission was sent to all interested parties, may appeal the decision of the commission to the court of common pleas.

(B) WHERE TO FILE THE APPEAL

An appellant shall file the appeal with the court of common pleas of the county where the appellant, if an employee, is a resident or was last employed or, if an employer, is a resident or has a principal place of business in this state.

(C) PERFECTING THE APPEAL

The timely filing of the notice of appeal shall be the only act required to perfect the appeal and vest jurisdiction in the court. The notice of appeal shall identify the decision appealed from.

(D) INTERESTED PARTIES

The commission shall provide on its final decision the names and addresses of all interested parties. The appellant shall name all interested parties as appellees in the notice of appeal. The director of job and family services is always an interested party and shall be named as an appellee in the notice of appeal.

(E) SERVICE OF THE NOTICE OF APPEAL

Upon filing the notice of appeal with the clerk of the court, the clerk shall serve a copy of the notice of appeal upon all appellees, including the director.

(F) DUTIES OF THE COMMISSION

The commission, within forty-five days after a notice of appeal is filed, shall file with the clerk a certified transcript of the record of the proceedings at issue before the commission. The commission also shall provide a copy of the transcript to the appellant's attorney or to the appellant, if the appellant is not represented by counsel, and to any appellee who requests a copy.

(G) COURT BRIEFING SCHEDULES

The court shall provide for the filing of briefs by the parties, whether by local rule, scheduling order, or otherwise.

(H) REVIEW BY THE COURT OF COMMON PLEAS

The court shall hear the appeal upon receipt of the certified record provided by the commission. If the court finds that the decision of the commission was unlawful, unreasonable, or against the manifest weight of the evidence, it shall reverse, vacate, or modify the decision, or remand the matter to the commission. Otherwise, the court shall affirm the decision of the commission.

(I) FAILURE TO FILE APPEAL WITHIN THIRTY DAYS

If an appeal is filed after the thirty-day appeal period, the court of common pleas shall conduct a hearing to determine whether the appeal was timely filed under division (D)(9) of section 4141.281 of the Revised Code. At the hearing, additional evidence may be introduced and oral arguments may be presented regarding the timeliness of the filing of the appeal.

If the court of common pleas determines that the appeal was filed within the time allowed, the court shall after that make its decision on the merits of the appeal. The determination on timeliness by the court of common pleas may be appealed to the court of appeals as in civil cases, and such appeal shall be consolidated with any appeal from the decision by the court of common pleas on the merits of the appeal.

Sec. ~~4141.281~~ 4141.283. (A) Whenever the director of job and family services has reason to believe that the unemployment of twenty-five or more individuals relates to a labor dispute, the director, within five calendar days

after their claims are filed, shall schedule a hearing concerning the reason for unemployment. Notice of the hearing shall be sent to all interested parties, including the duly authorized representative of the parties,~~as provided in division (D)(1) of section 4141.28 of the Revised Code.~~ The hearing date shall be scheduled so as to provide at least ten days' prior notice of the time and date of the hearing. A similar hearing, in such cases, may be scheduled when there is a dispute as to the duration or ending date of the labor dispute.

(B) The director shall appoint a hearing officer to conduct the hearing of the case under division (A) of this section. The hearing officer is not bound by common law or statutory rules of evidence or by technical or formal rules of procedure, but shall take any steps that are reasonable and necessary to obtain the facts and determine whether the claimants are entitled to benefits under the law. The failure of any interested party to appear at the hearing shall not preclude a decision based upon all the facts available to the hearing officer. The proceeding at the hearing shall be recorded by mechanical means or by other means prescribed by the director. The record need not be transcribed unless an application for appeal is filed on the decision and the chairperson of the unemployment compensation review commission requests a transcript of the hearing within fourteen days after the application for appeal is received by the commission. The director shall prescribe rules concerning the conduct of the hearings and all related matters and appoint an attorney to direct the operation of this function.

(C) The director shall issue the hearing officer's decisions and reasons therefor on the case within ten calendar days after the hearing. The hearing officer's decision issued by the director is final unless an application for appeal is filed with the ~~review~~ commission within twenty-one days after the decision was mailed to all interested parties. The director, within the twenty-one-day appeal period, may remove and vacate the decision and issue a revised determination and appeal date.

(D) Upon receipt of the application for appeal, the full ~~review~~ commission shall review the director's decision, and then schedule a further hearing on the case, disallow the application without further hearing, or modify or reverse the director's decision. The ~~review~~ commission shall review the director's decision within fourteen days after receipt of the decision or the receipt of a transcript requested under division (B) of this section, whichever is later.

(1) When a further hearing is granted, the commission shall make the director's decision and record of the case, as certified by the director, a part of the record and shall consider the director's decision and record in arriving

at a decision on the case. The commission's decision affirming, modifying, or reversing the director's decision, following the further appeal, shall be mailed to all interested parties within fourteen days after the hearing.

(2) A decision to disallow a further appeal or to modify or reverse the director's decision shall be mailed to all interested parties within fourteen days after the commission makes the decision. A disallowance is deemed an affirmation of the director's decision.

(3) The time limits specified in this section may be extended by agreement of all interested parties or for cause beyond the control of the director or the commission.

(E) An appeal of the commission's decision issued under division (D) of this section may be taken to the court of common pleas as provided in ~~division (N) of section 4141.28~~ 4141.282 of the Revised Code.

(F) A labor dispute decision involving fewer than twenty-five individuals shall be determined under ~~division (D)(1) of section 4141.28~~ of the Revised Code, and the ~~review~~ commission shall determine any appeal from the decision pursuant to ~~division (M) of that section 4141.281~~ of the Revised Code and within the time limits provided in division (D) of this section.

Sec. ~~4141.282~~ 4141.284. (A) When a claim for unemployment compensation is filed by an individual who owes child support obligations, the director of job and family services shall notify the state or local child support enforcement agency enforcing the obligation only if the claimant has been determined to be eligible for unemployment compensation.

(B) The director shall deduct and withhold from unemployment compensation payable to an individual who owes child support obligations:

(1) Any amount required to be deducted and withheld from the unemployment compensation pursuant to legal process, as that term is defined in section 459(i)(5) of the "Social Security Act," as amended by the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 100 Stat. 2105, 42 U.S.C. 659, and properly served upon the director, as described in division (C) of this section; or

(2) Where division (B)(1) of this section is inapplicable, in the amount determined pursuant to an agreement submitted to the director under section 454(19)(B)(i) of the "Social Security Act," 88 Stat. 2351, 42 U.S.C. 654, as amended, by the state or local child support enforcement agency; or

(3) If neither division (B)(1) nor (2) of this section is applicable, then in the amount specified by the individual.

(C) The director shall receive all legal process described in division (B)(1) of this section from each local child support enforcement agency,

which legal process was issued by the agency under section 3121.07 of the Revised Code or otherwise was issued by the agency.

(D) The amount of unemployment compensation subject to being withheld pursuant to division (B) of this section is that amount that remains payable to the individual after application of any recoupment provisions for recovery of overpayments and after deductions that have been made under this chapter for deductible income received by the individual.

(E) Any amount deducted and withheld under division (B) of this section shall be paid to the appropriate state or local child support enforcement agency in the following manner:

(1) The director shall determine the amounts that are to be deducted and withheld on a per county basis.

(2) For each county, the director shall forward to the local child support enforcement agency of the county, the amount determined for that county under division (E)(1) of this section for disbursement to the obligees or assignees of such support obligations.

(F) Any amount deducted and withheld under division (B) of this section shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by the individual to the state or local child support agency in satisfaction of the individual's child support obligations.

(G) This section applies only if appropriate arrangements have been made for reimbursement by the state or local child support enforcement agency for the administrative costs incurred by the director under this section which are associated with or attributable to child support obligations being enforced by the state or local child support enforcement agency.

(H) As used in this section:

(1) "Child support obligations" means only obligations that are being enforced pursuant to a plan described in section 454 of the "Social Security Act," 88 Stat. 2351, 42 U.S.C. 654, as amended, which has been approved by the United States secretary of health and human services under part D of Title IV of the "Social Security Act," 88 Stat. 2351, 42 U.S.C. 651, as amended.

(2) "State child support enforcement agency" means the work unit within the department of job and family services, or the state agency of another state, designated as the single state agency for the administration of the program of child support enforcement pursuant to part D of Title IV of the "Social Security Act," 88 Stat. 2351, 42 U.S.C. 651, as amended.

(3) "Local child support enforcement agency" means a child support enforcement agency or any other agency of a political subdivision of the

state operating pursuant to a plan mentioned in division (H)(1) of this section.

(4) "Unemployment compensation" means any compensation payable under this chapter including amounts payable by the director pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

Sec. ~~4141.283~~ 4141.285. Where a claim for benefits is directly attributable to unemployment caused by a major disaster, as declared by the president of the United States pursuant to the "Disaster Relief Act of 1970," 84 Stat. 1745, 42 U.S.C.A. 4402, and the individual filing the claim would otherwise have been eligible for disaster unemployment assistance under that act, then upon application by the employer, any benefits paid on the claim shall not be charged to the account of the employer who would have been charged on that claim but instead shall be charged to the mutualized account described in section 4141.25 of the Revised Code, provided that this division is not applicable to an employer electing reimbursing status under section 4141.241 of the Revised Code, except reimbursing employers for whom benefit charges are charged to the mutualized account pursuant to division (D)(2) of section 4141.24 of the Revised Code.

Sec. 4141.301. (A) As used in this section, unless the context clearly requires otherwise:

(1) "Extended benefit period" means a period which:

(a) Begins with the third week after a week for which there is a state "on" indicator; and

(b) Ends with either of the following weeks, whichever occurs later:

(i) The third week after the first week for which there is a state "off" indicator; or

(ii) The thirteenth consecutive week of such period.

Except, that no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state.

(2) There is a "~~state-on~~ state 'on' indicator" for this state for a week if the director of job and family services determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment, not seasonally adjusted, under Chapter 4141. of the Revised Code:

(a) Equaled or exceeded one hundred twenty per cent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, and for weeks beginning before September

25, 1982, equaled or exceeded four per cent and for weeks beginning after September 25, 1982, equaled or exceeded five per cent;

(b) For weeks of unemployment beginning after December 31, 1977, and before September 25, 1982, such rate of insured unemployment:

(i) Met the criteria set forth in division (A)(2)(a) of this section; or

(ii) Equaled or exceeded five per cent.

(c) For weeks of unemployment beginning after September 25, 1982, such rate of insured unemployment:

(i) Met the criteria set forth in division (A)(2)(a) of this section; or

(ii) Equaled or exceeded six per cent.

(3) A "state 'off' indicator" exists for the state for a week if the director determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment, not seasonally adjusted, under Chapter 4141. of the Revised Code:

(a) Was less than one hundred twenty per cent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, or for weeks beginning before September 25, 1982, was less than four per cent and for weeks beginning after September 25, 1982, was less than five per cent;

(b) For weeks of unemployment beginning after December 31, 1977 and before September 25, 1982, such rate of insured unemployment:

(i) Was less than five per cent; and

(ii) Met the criteria set forth in division (A)(3)(a) of this section.

(c) For weeks of unemployment beginning after September 25, 1982, such rate of insured unemployment:

(i) Was less than six per cent; and

(ii) Met the criteria set forth in division (A)(3)(a) of this section.

(4) "Rate of insured unemployment," for purposes of divisions (A)(2) and (3) of this section, means the percentage derived by dividing:

(a) The average weekly number of individuals filing claims for regular compensation in this state for weeks of unemployment with respect to the most recent thirteen-consecutive-week period, as determined by the director on the basis of the director's reports to the United States secretary of labor, by

(b) The average monthly employment covered under Chapter 4141. of the Revised Code, for the first four of the most recent six completed calendar quarters ending before the end of such thirteen-week period.

(5) "Regular benefits" means benefits payable to an individual, as defined in division (C) of section 4141.01 of the Revised Code, or under any

other state law, including dependents' allowance and benefits payable to federal civilian employees and to ex-servicepersons pursuant to the "Act of September 6, 1966," 80 Stat. 585, 5 U.S.C.A. 8501, other than extended benefits, and additional benefits as defined in division (A)(10) of this section.

(6) "Extended benefits" means benefits, including benefits payable to federal civilian employees and to ex-servicepersons pursuant to the "Act of September 6, 1966," 80 Stat. 585, 5 U.S.C.A. 8501, and additional benefits, payable to an individual under the provisions of this section for weeks of unemployment in the individual's eligibility period.

(7) "Eligibility period" of an individual means the period consisting of the weeks in the individual's benefit year which begin in an extended benefit period and, if the individual's benefit year ends within the extended benefit period, any weeks thereafter which begin in the period.

(8) "Exhaustee" means an individual who, with respect to any week of unemployment in the individual's eligibility period:

(a) Has received prior to the week, all of the regular benefits that were available to the individual under Chapter 4141. of the Revised Code, or any other state law, including dependents' allowance and benefits payable to federal civilian employees and ex-servicepersons under the "Act of September 6, 1966," 80 Stat. 585, 5 U.S.C.A. 8501, in the individual's current benefit year that includes the week;

(b) Has received, prior to the week, all of the regular benefits that were available to the individual under this chapter or any other state law, including dependents' allowances and regular benefits available to federal civilian employees and ex-servicepersons under the "Act of September 6, 1966," 80 Stat. 585, 5 U.S.C.A. 8501, in the individual's current benefit year that includes the week, after the cancellation of some or all of the individual's wage credits or the total or partial reduction of the individual's right to regular benefits, provided that, for the purposes of divisions (A)(8)(a) and (8)(b) of this section, an individual shall be deemed to have received in the individual's current benefit year all of the regular benefits that were either payable or available to the individual even though:

(i) As a result of a pending appeal with respect to wages or employment, or both, that were not included in the original monetary determination with respect to the individual's current benefit year, the individual may subsequently be determined to be entitled to more regular benefits, or

(ii) By reason of section 4141.33 of the Revised Code, or the seasonal employment provisions of another state law, the individual is not entitled to regular benefits with respect to the week of unemployment, although the

individual may be entitled to regular benefits with respect to future weeks of unemployment in either the next season or off season in the individual's current benefit year, and the individual is otherwise an "exhaustee" within the meaning of this section with respect to the right to regular benefits under state law seasonal employment provisions during either the season or off season in which that week of unemployment occurs, or

(iii) Having established a benefit year, no regular benefits are payable to the individual during the year because the individual's wage credits were cancelled or the individual's right to regular benefits was totally reduced as the result of the application of a disqualification; or

(c) The individual's benefit year having expired prior to the week, has no, or insufficient, wages or weeks of employment on the basis of which the individual could establish in any state a new benefit year that would include the week, or having established a new benefit year that includes the week, the individual is precluded from receiving regular benefits by reason of a state law which meets the requirements of section 3304 (a)(7) of the "Federal Unemployment Tax Act," 53 Stat. 183, 26 U.S.C.A. 3301 to 3311; and

(i) Has no right for the week to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Act of 1974, and other federal laws as are specified in regulations issued by the United States secretary of labor; and

(ii) Has not received and is not seeking for the week unemployment benefits under the unemployment compensation law of the Virgin Islands, prior to the day after that on which the secretary of labor approves the unemployment compensation law of the Virgin Islands, or of Canada; or if the individual is seeking benefits and the appropriate agency finally determines that the individual is not entitled to benefits under the law for the week.

(9) "State law" means the unemployment insurance law of any state, approved by the United States secretary of labor under section 3304 of the Internal Revenue Code of 1954.

(10) "Additional benefits" means benefits totally financed by a state and payable to exhaustees by reason of high unemployment or by reason of other special factors under the provisions of any state law.

(B) Except when the result would be inconsistent with the other provisions of this section, as provided in the regulations of the director, the provisions of Chapter 4141. of the Revised Code, which apply to claims for, or the payment of, regular benefits, shall apply to claims for, and the payment of, extended benefits.

(C) Any individual shall be eligible to receive extended benefits with respect to any week of unemployment in the individual's eligibility period only if the director finds that, with respect to such week:

(1) The individual is an "exhaustee" as defined in division (A)(8) of this section; and

(2) The individual has satisfied the requirements of Chapter 4141. of the Revised Code, for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits.

(D) The weekly extended benefit amount payable to an individual for a week of total unemployment in the individual's eligibility period shall be the same as the weekly benefit amount payable to the individual during the individual's applicable benefit year.

(E) The total extended benefit amount payable to any eligible individual with respect to the individual's applicable benefit year shall be the lesser of the following amounts:

(1) Fifty per cent of the total amount of regular benefits, including dependents' allowances which were payable to the individual under Chapter 4141. of the Revised Code, in the individual's applicable benefit year;

(2) Thirteen times the individual's weekly benefit amount, including dependents' allowances, which was payable to the individual under Chapter 4141. of the Revised Code, for a week of total unemployment in the applicable benefit year; provided, that in making the computation under divisions (E)(1) and (2) of this section, any amount which is not a multiple of one dollar shall be rounded to the next lower multiple of one dollar.

(F)(1) Except as provided in division (F)(2) of this section, an individual eligible for extended benefits pursuant to an interstate claim filed in any state under the interstate benefit payment plan shall not be paid extended benefits for any week in which an extended benefit period is not in effect in such state.

(2) Division (F)(1) of this section does not apply with respect to the first two weeks for which extended compensation is payable to an individual, as determined without regard to this division, pursuant to an interstate claim filed under the interstate benefit payment plan from the total extended benefit amount payable to that individual in the individual's applicable benefit year.

(3) Notwithstanding any other provisions of this section, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that the individual would, but for this section, be entitled to receive in that extended benefit period, with respect to weeks

of unemployment beginning after the end of the benefit year, shall be reduced, but not below zero, by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.

(G)(1) Whenever an extended benefit period is to become effective in this state, as a result of a state "on" indicator, or an extended benefit period is to be terminated in this state as a result of a state "off" indicator, the director shall make an appropriate public announcement.

(2) Computations required by division (A)(4) of this section shall be made by the director, in accordance with the regulations prescribed by the United States secretary of labor.

(H)(1)(a) The director shall promptly examine any application for extended benefits filed and, under this section, determine whether the application is to be allowed or disallowed and, if allowed, the weekly and total extended benefits payable and the effective date of the application. The claimant, the claimant's most recent employer, and any other employer in the base period of the claim upon which the extended benefits are based, and who was chargeable for regular benefits based on such claim, shall be notified of such determination.

(b) The determination issued to the most recent or other base period employer shall include the total amount of extended benefits that may be charged to the employer's account. Such potential charge amount shall be an amount equal to one-fourth of the regular benefits chargeable to the employer's account on the regular claim upon which extended benefits are based except that, effective January 1, 1979, the potential charge amount to the state and its instrumentalities and its political subdivisions and their instrumentalities shall be an amount equal to one-half of the regular benefits chargeable to their accounts on such claim. If regular benefits were chargeable to the mutualized account, in lieu of an employer's account, then the extended benefits which are based on such prior mutualized benefits shall also be charged to the mutualized account.

(c) As extended benefits are paid to eligible individuals:

(i) One-half of such benefits will be charged to an extended benefit account to which reimbursement payments of one-half of extended benefits, received from the federal government as described in division (J) of this section, will be credited; and

(ii) One-half of the extended benefits shall be charged to the accounts of base period employers and the mutualized account in the same proportion as was provided for on the regular claim; or

(iii) The full amount of extended benefits shall be charged to the accounts of the state and its instrumentalities, and its political subdivisions and their instrumentalities. Employers making payments in lieu of contributions shall be charged in accordance with division (B)(1) of section 4141.241 of the Revised Code.

(d) If the application for extended benefits is disallowed, a determination shall be issued to the claimant, which determination shall set forth the reasons for the disallowance. Determinations issued under this division, whether allowed or disallowed, shall be subject to reconsideration and appeal in accordance with section ~~4141.28~~ 4141.281 of the Revised Code.

(2) Any additional or continued claims, as described in division (F) of section 4141.01 of the Revised Code, filed by an individual at the beginning of, or during, the individual's extended benefit period shall be determined under division ~~(D)~~(E) of section 4141.28 of the Revised Code, and such determination shall be subject to reconsideration and appeal in accordance with section ~~4141.28~~ 4141.281 of the Revised Code.

(I) Notwithstanding division (B) of this section, payment of extended benefits under this section shall not be made to any individual for any week of unemployment in the individual's eligibility period during which the individual fails to accept any offer of suitable work, as defined in division (I)(2) of this section, or fails to apply for any suitable work to which the individual was referred by the director, or fails to actively engage in seeking work, as prescribed in division (I)(4) of this section.

(1) If an individual is ineligible for extended benefits for any week by reason of a failure described in this division, the individual shall be ineligible to receive extended benefits beginning with the week in which the failure occurred and continuing until the individual has been employed during each of four subsequent weeks and the total remuneration earned by the individual for this employment is equal to or more than four times the individual's weekly extended benefit amount, and has met all other eligibility requirements of this section, in order to establish entitlement to extended benefits.

(2) For purposes of this section, the term "suitable work" means, with respect to an individual, any work which is within the individual's capabilities, provided that with respect to the position all of the following requirements are met:

(a) It offers the individual gross average weekly remuneration of more than the sum of:

(i) The individual's extended weekly benefit amount; and

(ii) The amount of supplemental unemployment compensation benefits, as defined in section 501(c)(17)(D) of the "Internal Revenue Code of 1954," 80 Stat. 1515, 26 U.S.C.A. 501, payable to the individual for the week of unemployment.

(b) It pays equal to or more than the higher of:

(i) The minimum wage provided by section 6(a)(1) of the "Fair Labor Standards Act of 1938," 91 Stat. 1245, 29 U.S.C.A. 206, without regard to any exemption; or

(ii) Any applicable state or local minimum wage.

(c) It is offered to the individual in writing or is listed with the employment office maintained or designated by the director.

(3) Extended benefits shall not be denied under this division to any individual for any week by reason of a failure to accept an offer of, or apply for suitable work if either of the following conditions apply:

(a) The failure would not result in a denial of benefits to a regular benefit claimant under section 4141.29 of the Revised Code to the extent that section 4141.29 of the Revised Code is not inconsistent with division (I)(2) of this section;

(b) The individual furnishes evidence satisfactory to the director that the individual's prospects for obtaining work in the individual's customary occupation within a reasonably short period are good. If the evidence is deemed satisfactory, the determination as to whether any work is suitable work with respect to this individual and whether the individual is ineligible or disqualified shall be based upon the meaning of "suitable work" and other provisions in section 4141.29 of the Revised Code.

(4) For purposes of this section, an individual shall be treated as actively engaged in seeking work during any week if:

(a) The individual has engaged in a systematic and sustained effort to obtain work during that week; and

(b) The individual provides tangible evidence to the director that the individual has engaged in the effort during that week.

(5) The director shall refer applicants for extended benefits to job openings that meet the requirements of divisions (E) and (F) of section 4141.29 of the Revised Code, and in the case of applicants whose prospects are determined not to be good under division (I)(3)(b) of this section to any suitable work which meets the criteria in divisions (I)(2) and (3)(a) of this section.

(6) Individuals denied extended or regular benefits under division (D)(1)(b) of section 4141.29 of the Revised Code because of being given a disciplinary layoff for misconduct must, after the date of disqualification,

work the length of time and earn the amount of remuneration specified in division (I)(1) of this section, and meet all other eligibility requirements of this section, in order to establish entitlement to extended benefits.

(J) All payments of extended benefits made pursuant to this section shall be paid out of the unemployment compensation fund, provided by section 4141.09 of the Revised Code, and all payments of the federal share of extended benefits that are received as reimbursements under section 204 of the "Federal-State Extended Unemployment Compensation Act of 1970," 84 Stat. 696, 26 U.S.C.A. 3306, shall be deposited in such unemployment compensation fund and shall be credited to the extended benefit account established by division (G) of this section. Any refund of extended benefits, because of prior overpayment of such benefits, may be made from the unemployment compensation fund.

(K) In the administration of the provisions of this section which are enacted to conform with the requirements of the "Federal-State Extended Unemployment Compensation Act of 1970," 84 Stat. 696, 26 U.S.C.A. 3306, the director shall take such action consistent with state law, as may be necessary:

(1) To ensure that the provisions are so interpreted and applied as to meet the requirements of the federal act as interpreted by the United States department of labor; and

(2) To secure to this state the full reimbursement of the federal share of extended benefits paid under this section that are reimbursable under the federal act.

Sec. 4141.35. (A) If the director of job and family services finds that any fraudulent misrepresentation has been made by an applicant for or a recipient of benefits with the object of obtaining benefits to which the applicant or recipient was not entitled, and in addition to any other penalty or forfeiture under this chapter, then the director:

(1) Shall within four years after the end of the benefit year in which the fraudulent misrepresentation was made reject or cancel such person's entire weekly claim for benefits that was fraudulently claimed, or the person's entire benefit rights if the misrepresentation was in connection with the filing of the claimant's application for determination of benefit rights;

(2) Shall by order declare that, for each application for benefit rights and for each weekly claim canceled, such person shall be ineligible for two otherwise valid weekly claims for benefits, claimed within six years subsequent to the discovery of such misrepresentation;

(3) By order shall require that the total amount of benefits rejected or canceled under division (A)(1) of this section be repaid to the director

before such person may become eligible for further benefits, and shall withhold such unpaid sums from future benefit payments accruing and otherwise payable to such claimant. Effective with orders issued on or after January 1, 1993, if such benefits are not repaid within thirty days after the director's order becomes final, interest on the amount remaining unpaid shall be charged to the person at a rate and calculated in the same manner as provided under section 4141.23 of the Revised Code. When a person ordered to repay benefits has repaid all overpaid benefits according to a plan approved by the director, the director may cancel the amount of interest that accrued during the period of the repayment plan. The director may take action in the courts of this state to collect benefits and interest as provided in sections 4141.23 and 4141.27 of the Revised Code, in regard to the collection of unpaid contributions, using the final repayment order as the basis for such action. No administrative or legal proceedings for the collection of such benefits or interest due shall be initiated after the expiration of six years from the date on which the director's order requiring repayment became final and the amount of any benefits or interest not recovered at that time, and any liens thereon, shall be canceled as uncollectible.

(4) May take action to collect benefits fraudulently obtained under the unemployment compensation law of any other state or the United States or Canada. Such action may be initiated in the courts of this state in the same manner as provided for unpaid contributions in section 4141.41 of the Revised Code.

(5) May take action to collect benefits that have been fraudulently obtained from the director, interest pursuant to division (A)(3) of this section, and court costs, through attachment proceedings under Chapter 2715. of the Revised Code and garnishment proceedings under Chapter 2716. of the Revised Code.

(B) If the director finds that an applicant for benefits has been credited with a waiting period or paid benefits to which the applicant was not entitled for reasons other than fraudulent misrepresentation, the director shall:

(1)(a) Within six months after the determination under which the claimant was credited with that waiting period or paid benefits becomes final pursuant to section 4141.28 of the Revised Code, or within three years after the end of the benefit year in which such benefits were claimed, whichever is later, by order cancel such waiting period and require that such benefits be repaid to the director or be withheld from any benefits to which such applicant is or may become entitled before any additional benefits are paid, provided that the repayment or withholding shall not be required

where the overpayment is the result of the director's correcting ~~or amending~~ a prior decision due to a typographical or clerical error in the director's prior decision, or an error in an employer's report under division (G)(2) of section 4141.28 of the Revised Code.

(b) The limitation specified in division (B)(1)(a) of this section shall not apply to cases involving the retroactive payment of remuneration covering periods for which benefits were previously paid to the claimant. However, in such cases, the director's order requiring repayment shall not be issued unless the director is notified of such retroactive payment within six months from the date the retroactive payment was made to the claimant.

(2) The director may, by reciprocal agreement with the United States secretary of labor or another state, recover overpayment amounts from unemployment benefits otherwise payable to an individual under Chapter 4141. of the Revised Code. Any overpayments made to the individual that have not previously been recovered under an unemployment benefit program of the United States may be recovered in accordance with section 303(g) of the "Social Security Act" and sections 3304(a)(4) and 3306(f) of the "Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311.

(3) If the amounts required to be repaid under division (B) of this section are not recovered within three years from the date the director's order requiring payment became final, initiate no further action to collect such benefits and the amount of any benefits not recovered at that time shall be canceled as uncollectible.

(C) The ~~reconsideration and~~ appeal provisions of ~~section 4141.28~~ sections 4141.281 and 4141.282 of the Revised Code shall apply to all orders and determinations issued under this section, except that an individual's right of appeal under division (B)(2) of this section shall be limited to this state's authority to recover overpayment of benefits.

(D) If an individual makes a full repayment or a repayment that is less than the full amount required by this section, the director shall apply the repayment to the mutualized account under division (B) of section 4141.25 of the Revised Code, except that the director shall credit the repayment to the accounts of the individual's base period employers that previously have not been credited for the amount of improperly paid benefits charged against their accounts based on the proportion of benefits charged against the accounts as determined pursuant to division (D) of section 4141.24 of the Revised Code.

The director shall deposit any repayment collected under this section that the director determines to be payment of interest or court costs into the

unemployment compensation special administrative fund established pursuant to section 4141.11 of the Revised Code.

Sec. 4503.03. (A) The registrar of motor vehicles may designate the county auditor in each county a deputy registrar. If the population of a county is forty thousand or less according to the last federal census and if the county auditor is designated by the registrar as a deputy registrar, no other person need be designated in the county to act as a deputy registrar. In all other instances, the registrar shall contract with one or more other persons in each county to act as deputy registrars. Deputy registrars shall accept applications for the annual license tax for any vehicle not taxed under section 4503.63 of the Revised Code and shall assign distinctive numbers in the same manner as the registrar. Such deputies shall be located in such locations in the county as the registrar sees fit. There shall be at least one deputy registrar in each county.

Deputy registrar contracts are subject to the provisions of division (B) of section 125.081 of the Revised Code.

(B) The registrar shall not contract with any person to act as a deputy registrar if the person or, where applicable, ~~his~~ the person's spouse or a member of ~~his~~ the person's immediate family has made, within the current calendar year or any one of the previous three calendar years, one or more contributions totaling in excess of one hundred dollars to any person or entity included in division (A)(2) of section 102.021 of the Revised Code. As used in this division, "immediate family" has the same meaning as in division (D) of section 102.01 of the Revised Code and "entity" includes any political party and any "continuing association" as defined in division (B)(4) of section 3517.01 of the Revised Code or "political action committee" as defined in division (B)(8) of that section that is primarily associated with that political party. For purposes of this division, contributions to any continuing association or any political action committee that is primarily associated with a political party shall be aggregated with contributions to that political party.

The contribution limitations contained in this division do not apply to any county auditor.

The registrar shall not contract with either of the following to act as a deputy registrar:

(1) Any elected public official other than a county auditor acting in ~~his~~ the county auditor's official capacity;

(2) Any person holding a current, valid contract to conduct motor vehicle inspections under section 3704.14 of the Revised Code.

(C) ~~Deputy~~ (1) Except as provided in division (C)(2) of this section,

deputy registrars are independent contractors and neither they nor their employees are employees of this state, except that nothing in this section shall affect the status of county auditors as public officials, nor the status of their employees as employees of any of the counties of this state, which are political subdivisions of this state. Each deputy registrar shall be responsible for the payment of all unemployment compensation premiums, all workers' compensation premiums, social security contributions, and any and all taxes for which ~~he~~ the deputy registrar is legally responsible. Each deputy registrar shall comply with all applicable federal, state, and local laws requiring the withholding of income taxes or other taxes from the compensation of ~~his~~ the deputy registrar's employees. Each deputy registrar shall maintain during the entire term of ~~his~~ the deputy registrar's contract a policy of business liability insurance satisfactory to the registrar and shall hold the department of public safety, the director of public safety, the bureau of motor vehicles, and the registrar harmless upon any and all claims for damages arising out of the operation of the deputy registrar agency.

(2) For purposes of Chapter 4141. of the Revised Code, determinations concerning the employment of deputy registrars and their employees shall be made under Chapter 4141. of the Revised Code.

(D) With the approval of the director, the registrar shall adopt rules governing the terms of the contract between the registrar and each deputy registrar and specifications for the services to be performed. The rules shall include specifications relating to the amount of bond to be given as provided in this section; the size and location of the deputy's office; the leasing of equipment necessary to conduct the vision screenings required under section 4507.12 of the Revised Code, and training in the use of the equipment. The specifications shall permit and encourage every deputy registrar to inform the public of the location of ~~his~~ the deputy registrar's office and hours of operation by means of public service announcements and allow any deputy registrar to advertise in regard to the operation of the deputy registrar's office. The rules also shall include specifications for the hours the deputy's office is to be open to the public and shall require as a minimum that one deputy's office in each county be open to the public for at least four hours each weekend, provided that if only one deputy's office is located within the boundary of the county seat, that office is the office that shall be open for the four-hour period each weekend, and that every deputy's office in each county shall be open to the public until six-thirty p.m. on at least one weeknight each week. The rules also shall include specifications providing that every deputy in each county, upon request, provide any person with information about the location and office hours of all deputy registrars in the

county and that every deputy registrar prominently display within ~~his~~ the deputy registrar's office, the toll-free telephone number of the bureau. The rules shall not prohibit the award of a deputy registrar contract to a nonprofit corporation formed under the laws of this state. The rules shall prohibit any deputy registrar from operating more than one such office at any time, except that the rules may permit a nonprofit corporation formed for the purposes of providing automobile-related services to its members or the public and that provides such services from more than one location in this state to operate a deputy registrar office at any such location, provided that the nonprofit corporation operates no more than one deputy registrar office in any one county. The rules may include such other specifications as the registrar and director consider necessary to provide a high level of service.

As used in this section and in section 4507.01 of the Revised Code, "nonprofit corporation" has the same meaning as in section 1702.01 of the Revised Code.

(E) Unless otherwise terminated and except for interim contracts of less than one year, contracts with deputy registrars shall be for a term of at least two years, but no more than three years and all contracts effective on or after July 1, 1996, shall be for a term of more than two years, but not more than three years. All contracts with deputy registrars shall expire on the thirtieth day of June in the year of their expiration. The auditor of state may examine the accounts, reports, systems, and other data of each deputy registrar at least every two years. The registrar, with the approval of the director, shall immediately remove a deputy who violates any provision of the Revised Code related to ~~his~~ the duties as a deputy, any rule adopted by the registrar, or a term of ~~his~~ the deputy's contract with the registrar. The registrar also may remove a deputy who, in the opinion of the registrar, has engaged in any conduct that is either unbecoming to one representing this state or is inconsistent with the efficient operation of the deputy's office. Upon removal of a deputy registrar for contract violation, the auditor of state shall examine the accounts, records, systems, and other data of the deputy registrar so removed.

If the registrar, with the approval of the director, determines that there is good cause to believe that a deputy registrar or a person proposing for a deputy registrar contract has engaged in any conduct that would require the denial or termination of the deputy registrar contract, the registrar may require the production of such books, records, and papers as ~~he~~ the registrar determines are necessary, and may take the depositions of witnesses residing within or outside the state in the same manner as is prescribed by law for the taking of depositions in civil actions in the court of common pleas, and for

that purpose the registrar may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records, or papers, directed to the sheriff of the county where the witness resides or is found. Such a subpoena shall be served and returned in the same manner as a subpoena in a criminal case is served and returned. The fees and mileage of the sheriff and witnesses shall be the same as that allowed in the court of common pleas in criminal cases and shall be paid from the fund in the state treasury for the use of the agency in the same manner as other expenses of the agency are paid.

In any case of disobedience or neglect of any subpoena served on any person or the refusal of any witness to testify to any matter regarding which ~~he~~ the witness lawfully may be interrogated, the court of common pleas of any county where the disobedience, neglect, or refusal occurs or any judge thereof, on application by the registrar, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court, or a refusal to testify therein.

Nothing in this division shall be construed to require a hearing of any nature prior to the termination of any deputy registrar contract by the registrar, with the approval of the director, for cause.

(F) Except as provided in section 2743.03 of the Revised Code, no court, other than the court of common pleas of Franklin county, has jurisdiction of any action against the department of public safety, the director, the bureau, or the registrar to restrain the exercise of any power or authority nor to entertain any action for declaratory judgment in the selection and appointment of, or contracting with, deputy registrars. Neither the department, the director, the bureau, nor the registrar is liable in any action at law for damages sustained by any person because of any acts of the department, the director, the bureau, or the registrar, nor any employee of the department or bureau in the performance of ~~his~~ official duties in the selection and appointment of, and contracting with, deputy registrars.

(G) The registrar shall assign to each deputy registrar a series of numbers sufficient to supply the demand at all times in the area the deputy registrar serves, and the registrar shall keep a record in ~~his~~ the registrar's office of the numbers within the series assigned. Each deputy shall be required to give bond in the amount of at least twenty-five thousand dollars, or in such higher amount as the registrar determines necessary, based on a uniform schedule of bond amounts established by the registrar and determined by the volume of registrations handled by the deputy. The form of the bond shall be prescribed by the registrar. The bonds required of

deputy registrars, in the discretion of the registrar, may be individual or schedule bonds or may be included in any blanket bond coverage carried by the department.

(H) Each deputy registrar shall keep a file of each application received by ~~him~~ the deputy and shall register that motor vehicle with the name and address of the owner thereof.

(I) Upon request, a deputy registrar shall make the physical inspection of a motor vehicle and issue the physical inspection certificate required in section 4505.061 of the Revised Code.

(J) Each deputy registrar shall file a report semi-annually with the registrar of motor vehicles listing the number of applicants for licenses ~~he~~ the deputy has served, the number of voter registration applications ~~he~~ the deputy has completed and transmitted to the board of elections, and the number of voter registration applications declined.

SECTION 2. That existing sections 3121.01, 3121.07, 4141.01, 4141.06, 4141.162, 4141.20, 4141.24, 4141.26, 4141.281, 4141.282, 4141.283, 4141.301, 4141.35, and 4503.03 and section 4141.28 of the Revised Code are hereby repealed.

SECTION 3. Notwithstanding division (R)(2) of section 4141.01 of the Revised Code as amended by this act, the Director of Job and Family Services may specify that the provisions of that division are applicable for the determination of benefit rights involving benefit years beginning on or before December 28, 2003, if the Director determines that the technological systems necessary to effect the purposes of that division are operational and sufficiently adequate to assure no interruption in the discharge of the duties of the Director and the Department of Job and Family Services under Chapter 4141. of the Revised Code.

SECTION 4. Section 3121.01 of the Revised Code, as presented in this act, includes matter that was amended into former sections 3111.20 and 3113.21 of the Revised Code by Sub. H.B. 535 of the 123rd General Assembly. Paragraphs of former sections 3111.20 and 3113.21 of the Revised Code containing H.B. 535 amendments were transferred to section 3121.01 of the Revised Code by Am. Sub. S.B. 180 of the 123rd General Assembly as part of its general revision of the child support laws. Inclusion of the H.B. 535 amendments in section 3121.01 of the Revised Code is in recognition of the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if capable of simultaneous operation. The version of section 3121.01 of the Revised Code presented in this act therefore is the resulting version in effect prior to the effective date of the section in this act.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

S. B. No. 99

72

Governor.

S. B. No. 99

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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 _____